

UTAH
BOATING LAWS & RULES
(Updated as of July 2002)
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UTAH
BOATING ACT
AND
BOARD OF PARKS & RECREATION BOATING RULES

TITLE 73, CHAPTER 18, UTAH CODE ANNOTATED 1953
As Amended

Updated as of July 2002

Note: Rules of the Board are preceded by R651

73-18-1. Statement of policy.

It is the policy of this state to regulate and promote safety for persons and property in and connected with the use, operation and equipment of vessels and to promote uniformity of laws and to adopt and pursue an educational program in relation thereto.

73-18-2. Definitions.

As used in this chapter:

- (1) "Board" means the Board of Parks and Recreation.
- (2) "Boat livery" means an entity which holds any vessel for renting, leasing, or chartering.
- (3) "Carrying passengers for hire" means to transport persons on vessels or to lead persons on vessels for consideration.
- (4) "Consideration" means something of value given or done in exchange for something given or done by another.
- (5) "Dealer" means any person who is licensed by the appropriate authority to engage in and who is engaged in the business of buying and selling vessels or of manufacturing them for sale.
- (6) "Division" means the Division of Parks and Recreation.

(7) “Motorboat” means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

(8) “Operate” means to navigate, control, or otherwise use a vessel.

(9) “Operator” means the person who is in control of a vessel while it is in use.

(10) “Outfitting company” means any person who, for consideration:

(a) provides equipment to transport persons on rivers; and

(b) supervises guides who operate vessels to transport passengers or to lead persons on vessels.

(11) “Owner” means a person, other than a lien holder, holding a proprietary interest in or the title to a vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest by another person, reserved or created by agreement and securing payment or performance of an obligation. The term does not include a lessee under a lease not intended as security.

(12) “Personal watercraft” means a motorboat that is:

(a) less than 16 feet in length;

(b) propelled by a water jet pump; and

(c) designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than sitting or standing inside the vessel.

(13) “Sailboat” means any vessel having one or more sails and propelled by wind.

(14) “Vessel” means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(15) “Wakeless speed” means an operating speed at which the vessel does not create or make a wake or white water trailing the vessel. This speed is not in excess of five miles per hour.

(16) “Waters of this state” means any waters within the territorial limits of this state.

R651-201. Definitions.

R651-201-1. Approved.

“Approved” means approved by the commandant of the United States Coast Guard, unless the context clearly requires a different meaning. For carburetor backfire flame control devices “approved” means the device is marked with one of the following: a U.S. Coast Guard approval number; complies with Underwriters Laboratory test UL 1111; or complies with the Society of Automotive Engineers test SAE J-1928.

R651-201-2. Sailboard.

“Sailboard” means a wind-propelled vessel with a mast and sail that are held up by the operator who stands while operating the vessel.

73-18-3. Enforcement of State Boating Act to be supervised by division.

The administration and enforcement of the state boating act shall be under the supervision and direction of the division.

73-18-3.5. Advisory council.

The board may appoint an advisory council representing various boating interests to seek recommendations on state boating policies.

R651-202. Boating Advisory Council.

R651-202-1. A Boating Advisory Council, consisting of six members, has been appointed by the board to represent boaters and others in boating matters. There is one member from each of the following interests: United States Coast Guard Auxiliary, sailing or nonpowered craft users, wildlife and outdoor recreation associations, marine dealers, personal watercraft users, and river runners.

73-18-4. Board may promulgate rules.

(1) The board may promulgate rules:

(a) creating a uniform waterway marking system which shall be obeyed by all vessel operators;

R651-203. Waterway Marking System.

R651-203-1. Regulatory Markers.

An orange cross within an orange diamond, on end, means: “Boats Keep Out.”

An orange circle means: “Controlled Area.”

An orange diamond, on end, without a cross means: “Danger.”

An orange square or rectangle: “Provides Information.”

(1) The following regulatory symbols shall be international orange on a white background, and descriptive wording within or accompanying the regulatory symbols shall be in black letters.

(2) When the regulatory symbols are displayed on a buoy, an orange band should encircle the buoy near the water line and near the top.

R651-203-2. Channel Markers.

(1) White buoys with red vertical stripes mark the center of a channel and may be lettered alphabetically from downstream to upstream.

(2) Green can buoys, odd numbers, mark the left side, and red nun buoys, even numbers, mark the right side of a channel when proceeding upstream or returning from the main body of water.

R651-203-3. Mooring Buoy.

A mooring buoy is white and is designated with a blue band which is at least three inches wide and encircles the buoy halfway between the waterline and the top.

R651-203-4. Diver's Flag.

A square, red flag with a white diagonal stripe from one top corner to the opposite bottom corner should be used to indicate the presence of a diver below. A rigid replica of the International Code "A" flag not less than one meter in height may also be used. The operator of any vessel shall not approach within 150 feet of a posted diver's flag, unless the vessel is part of the equipment in use by the divers.

R651-203-5. Obeying Waterway Markers.

The operator of a vessel shall obey the markings or instructions of any official waterway marker.

73-18-4. (1)(b) regulating the placement of waterway markers and other permanent or anchored objects on the waters of this state;

R651-204. Regulating Waterway Markers.

R651-204-1. Placement of Waterway Markers.

No person shall place on or near the waters of this state any waterway marker, except a diver's flag, without written authorization by a federal agency operating within federal authority or by the division.

R651-204-2. Hazards to Navigation.

No person shall place any permanent or anchored objects on the waters of this state without written authorization by a federal agency operating within federal authority or by the division.

R651-204-3. Destruction of Waterway Markers.

No person shall remove, destroy, or damage any waterway marker authorized to be placed by a federal agency or by the division; nor shall any person moor any vessel to a waterway marker, except mooring buoys.

73-18-4. (1)(c) zoning certain waters of this state for the purpose of prohibiting the operation of vessels or motors for safety and health purposes only; and

R651-205. Zoned Waters.

R651-205-1. Obeying Zoned Waters.

The operator of a vessel shall obey zoned water requirements or restrictions.

R651-205-2. Deer Creek Reservoir.

Vessels and all other water activities are prohibited within 1500 feet of the dam.
No water skiing in Wallsberg Bay.

R651-205-3. Green River.

The use of motors is prohibited between the Flaming Gorge Dam and the confluence with Red Creek.

R651-205-4. Stansbury Park Lake.

The use of vessels over 20 feet in length and motors, except electric trolling motors, is prohibited.

R651-205-5. Lower Provo River.

The section from where it enters into Utah Lake upstream to the gas pipeline is designated as a wakeless speed area, and the use of motors is prohibited upstream from this point.

R651-205-6. Decker Lake.

The use of motors is prohibited.

R651-205-7. Palisade Lake.

The use of motors is prohibited.

R651-205-8. Ivins Reservoir.

The use of motors whose manufacture listed horsepower is 10 horsepower or more is prohibited.

R651-205-9. Jordan River.

The use of motors is prohibited.

R651-205-10. Ken's Lake.

The use of motors, except electric trolling motors, is prohibited.

R651-205-11. Pineview Reservoir.

The use of motors, except electric motors, is prohibited in the designated area in the North Arm, North Geersten Bay and the Middle Fork of the Ogden River. Vessels are prohibited in the Middle Inlet and Cemetery Point picnic areas.

R651-205-12. Jordanelle Reservoir.

The use of motorboats or sailboats is prohibited in the designated area of Hailstone Beach.

R651-205-13. Little Dell Reservoir.

The use of motors is prohibited.

R651-205-14. Bear Lake.

The use of a vessel is prohibited from July 1 through Labor Day in the area adjacent to Cisco Beach starting at the Entrance Station and extending approximately 1/4 mile south, when this area is marked with appropriate buoys.

R651-205-15. Lost Creek Reservoir.

A vessel may not be operated at a speed greater than wakeless speed at any time.

73-18-4. (1)(d) regulating vessel operators who carry passengers for hire and outfitting companies.

(2)(a) The board may set fees for licensing vessel operators who carry passengers for hire and registering outfitting companies in accordance with Section 63-38-3.2.

(b) The license and registration fees imposed pursuant to Subsection (2)(a) shall be deposited into the Boating Account created in Section 73-18-22.

R651-206. Carrying Passengers for Hire.

R651-206-1. Vessel Operator Permit.

(1) As used in this rule: "Operator Permit" means a valid Utah Vessel Operator Permit issued by the division or a valid Coast Guard Motorboat Operator License. The operator permit must be accompanied by a current and original "Standard" American Red Cross First Aid Card or equivalent and a current and original American Red Cross or American Heart Association "CPR" card.

(2) No person shall operate a vessel engaged in carrying passengers for hire on any lake or reservoir of this state unless the individual has in his possession an Operator Permit or is operating under Section R651-206-2.

(3) To obtain a Utah Vessel Operator permit, the applicant must be at least 18 years old, complete the prescribed form, possess the required first aid and CPR certification, successfully complete a written examination, pay a \$60 fee, and have 80 hours vessel operation, 20 hours of which was obtained operating an equivalent type and size of vessel which will be used for carriage of passengers. If the applicant fails to pass the written examination, there is a 7-day waiting period and a \$15 retest fee per attempt.

(4) A Utah Vessel Operator Permit is valid for three years from date of issue, unless suspended or revoked.

(5) A Utah Vessel Operator Permit may be renewed up to six months prior to expiration, upon completion of the prescribed form, presentation of required first aid and CPR certification and payment of a \$45 fee. The renewed permit shall have the same month and day expiration date as the original permit.

(6) A Utah Vessel Operator Permit which has expired shall not be renewed but is required to obtain a new permit as outlined above.

(7) In the event a Utah Vessel Operator Permit is lost or stolen, a duplicate permit may be issued with the same expiration date as the original permit upon completion of the prescribed form, payment of a \$25 fee. An application for a duplicate permit must have original signatures and be accompanied by original documentation of required first aid and CPR certification.

(8) Current Utah Vessel Operator Permit holders shall notify the Division, within 30 days, of any change of address.

(9) A Utah Vessel Operator Permit may be suspended or revoked for a length of time determined by the division director, or individual designated by the division director, if one of the following occurs:

(a) the permit holder is convicted of boating under the influence of alcohol or any drug, or refuses to submit to any chemical test which determines blood or breath alcohol content;

(b) the permit holder's negligence causes personal injury or death as determined by due process of the law;

(c) the permit holder is convicted of three violations of Title 73 Chapter 18 or rules promulgated thereunder during a three-year period; or

(d) the division determines that the permit holder intentionally provided false or fictitious statements or qualifications to obtain the permit.

(10) A person shall not operate an unfamiliar vessel carrying passengers for hire or operate on unfamiliar water unless there is an operator permit holder aboard who is familiar with the vessel and the water area.

(11) A valid Coast Guard Motorboat Operator License must be possessed if engaging in carrying passengers for hire on Bear Lake, Flaming Gorge, or Lake Powell, or a Vessel Operator Permit if leading a person for hire.

R651-206-2. River Guide Permit.

(1) As used in this rule:

(a) “Agent” means a person(s) designated by an outfitting company to act in behalf of that company in certifying a river guide's experience.

(b) “Certifying experience” means river running experience obtained within ten years of the date of application for the guide permit.

(c) “Guide 1” means a nonrestrictive river guide permit.

(d) “Guide 2” means a restricted river guide permit, which is valid only on other rivers.

(e) “Guide 3” means an apprentice river guide permit, which is valid only when the holder is accompanied on the whitewater river by a qualified Guide 1 permit holder. A Guide 3 permit is also valid on other rivers but must be accompanied by either a Guide 1 or 2 permit holder.

(f) “Guide 4” means a restricted apprentice river guide permit, which is valid only on other rivers when the holder is accompanied on the trip by a qualified Guide 1 or 2 permit holder.

(g) “Guide permit” means a valid Guide 1, 2, 3, or 4 permit issued by the division for carrying passengers for hire. For a Guide 1 or 2 permit to be valid they must be accompanied by a current “Emergency Response” American Red Cross First Aid Card or equivalent and an American Heart Association or and American Red Cross “CPR” Card. For a Guide 3 or 4 permit to be valid they must be accompanied by a current “Standard” American Red Cross First Aid Card or equivalent and an American Heart Association or an American Red Cross “CPR” Card. A photo copy of both sides of the required first aid and CPR certification cards is allowed.

(h) “Low capacity vessel” means a vessel with a carrying capacity of three or fewer occupants (e.g., canoe, kayak, inflatable kayak or similar vessel).

(i) “Other rivers” means all rivers, river sections, or both in Utah not defined in Subsection R651-206-2(1) as a whitewater river.

(j) “Whitewater river” means the following river sections: the Green and Yampa rivers within Dinosaur National Monument, the Green River in Desolation-Gray Canyon (Mile 96 to Mile 20), the Colorado River in Westwater Canyon, the Colorado River in Cataract Canyon, or other division recognized whitewater rivers in other states.

(2) No person shall operate a vessel engaged in carrying passengers for hire on any river of this state unless that person has in his possession the appropriate valid river guide permit. For low capacity vessels not operated by but led by a guide permit holder, there shall be at least one qualified guide permit holder for every four low capacity vessels being led in the group.

(3) To qualify for a Guide 1 permit, the applicant must be at least 18 years of age, complete the prescribed form, be current in the required first aid and CPR certification, successfully complete a written examination, pay a \$30 fee and have operated a vessel on at least nine whitewater river sections. If the applicant fails to pass the written examination, there is a 7-day waiting period and a \$15 retest fee per attempt.

(4) To qualify for a Guide 2 permit, the applicant must be at least 18 years of age, complete the prescribed form, be current in the required first aid and CPR certification, successfully complete a written examination, pay a \$30 fee and have operated a vessel on at least six river sections. If the applicant fails to pass the written examination, there is a 7-day waiting period and a \$15 retest fee per attempt.

(5) To qualify for a Guide 3 permit, the applicant must be at least 18 years of age, complete the prescribed form, be current in the required first aid and CPR certification, pay a \$20 fee and have operated a vessel on at least three whitewater river sections.

(6) To qualify for a Guide 4 permit, the applicant must be at least 18 years of age, complete the prescribed form, be current in the required first aid and CPR certification, pay a \$20 fee and have operated a vessel on at least three river sections.

(7) Any person applying for a duplicate, renewal, or a new guide permit shall be employed by or be a prospective employee of an outfitting company currently registered with the division. The applicant shall be sponsored by the outfitting company, or be currently employed and sponsored by a federal, state or county agency. Permit applications must have original signatures and be accompanied by original documentation of required first aid and CPR certification.

(8) Guide 3 and 4 permits shall expire annually on December 31. Guide 1 and 2 permits shall expire three years from date of issuance.

(9) Guide 1 or 2 permits may be renewed up to six months prior to expiration upon completion of the prescribed form, presentation of current guide permit, required first aid and CPR certification, and payment of a \$30 fee. The renewed permit shall have the same month and day expiration date as the original permit. Any Guide 1 or 2 permit holder whose permit has expired shall be required to obtain a new Guide 1 or 2 permit as outlined above.

(10) In the event a guide permit is lost or stolen a duplicate guide permit may be issued with the same expiration date as the original permit upon completion of the prescribed form, furnishing the required information as described in (7) above and payment of the required fee. The fee shall be \$15 for a guide 1 or 2 permit and \$15 for a guide 3 or 4 permit.

(11) All boatman permits issued by the division are expired.

(12) Current Guide Permit holders shall notify the Division, within 30 days, of any change of address.

(13) A guide permit holder shall not carry passengers for hire on his first trip on an unfamiliar river unless there is a qualified Guide 1 or 2 permit holder aboard who has operated a similar vessel on that river segment.

(14) A guide permit may be suspended or revoked for a length of time determined by the division director, or individual designated by the division director, if one of the following occurs:

(a) the guide permit holder is convicted of boating under the influence of alcohol or any drug, or refuses to submit to any chemical test which determines blood or breath alcohol content;

(b) the guide permit holder's negligence causes personal injury or death as determined by due process of the law;

(c) the guide permit holder is convicted of three violations of Title 73 Chapter 18 or rules promulgated thereunder during a three-year period;

(d) the division determines that the guide permit holder intentionally provided false or fictitious statements or qualifications to obtain the guide permit; or

(e) a guide permit holder has utilized a private river trip permit for carrying passengers for hire and has been prosecuted by the issuing agency and found guilty of the violation.

(15) Every outfitting company carrying passengers for hire on any river of this state shall register with the division annually prior to commencement of operation. The registration requires the completion of the prescribed form and providing the following: evidence of registration with the Department of Commerce, evidence of river trip authorization from the appropriate controlling state or federal agency, and payment of a \$200 fee.

(16) The agent shall certify and guarantee that each river guide sponsored by the outfitting company that he represents has obtained the necessary experience, as required above, depending on the type of guide permit applied for.

(17) An outfitting company's division registration may be suspended or revoked for a length of time determined by the division director, or individual designated by the division director, if one of the following occurs:

(a) the outfitting company's or agent's negligence caused personal injury or death as determined by due process of the law;

(b) the outfitting company or agent is convicted of three violations of Title 73 Chapter 18 or rules promulgated thereunder during a calendar year period;

(c) false or fictitious statements were certified or false qualifications were used to qualify a person to obtain a guide permit for an employee or others;

(d) the division determines that the outfitting company intentionally provided false or fictitious statements or qualifications when registering with the division;

(e) an outfitting company has utilized a private river trip permit for carrying passengers for hire and have been prosecuted by the issuing agency and found guilty of the violation; or

(f) the outfitting company used a guide without a valid guide permit or without the appropriate guide permit while engaging in carrying passengers for hire.

73-18-5. Repealed.

73-18-6. Numbering of motorboats and sailboats required -- Exceptions.

(1) Every motorboat and sailboat on the waters of this state shall be numbered. No person shall operate or give permission for the operation of any motorboat or sailboat on the waters of this state unless the motorboat or sailboat is numbered in accordance with:

(a) this chapter;

(b) applicable federal law; or

(c) a federally-approved numbering system of another state, if the owner is a resident of that state and his motorboat or sailboat has not been in this state in excess of 60 days for the calendar year.

(2) The number assigned to a motorboat or sailboat in accordance with this chapter, applicable federal law, or a federally-approved numbering system of another state shall be displayed on each side of the bow of the motorboat or sailboat, except this requirement does not apply to any vessel which has a valid marine document issued by the United States Coast Guard.

73-18-7. Registration requirements -- Exemptions -- Agents -- Records public --Period of registration and renewal -- Expiration -- Notice of transfer of interest or change of address -- Duplicate registration card -- Invalid registration -- Powers of board.

(1)(a) Each motorboat and sailboat on the waters of this state shall be registered, unless it is exempt from registration as provided for in Section 73-18-9.

(b) A person may not place, or give permission for the placement of, a motorboat or sailboat on any waters of this state or operate or give permission for the operation of a motorboat or sailboat on the waters of this state, unless the motorboat or sailboat is registered in accordance with this chapter or is exempt from registration as provided for in Section 73-18-9.

(2)(a) The owner of each motorboat or sailboat required to be registered by this state shall file an application for registration with the division on forms approved by the division.

(b)(i) The application shall be signed by the owner of the motorboat or sailboat and accompanied by a fee set by the board.

(ii) This fee may not exceed \$10 per year.

(c) The division, before issuing a registration card and registration decals, shall require from each applicant a certificate from the county assessor of the county in which the motorboat or sailboat has situs for taxation containing one of the following statements:

(i) the property tax on the motorboat or sailboat for the current year has been paid;

(ii) in the county assessor's opinion, the property tax is a lien on real property sufficient to secure the payment of the property tax; or

(iii) the motorboat or sailboat is exempt by law from payment of property tax for the current year.

R651-207. Registration Fee.

R651-207-1. The registration fee shall be \$10 per year.

73-18-7. (3)(a) Upon receipt of the application in the approved form, the division shall record the receipt and issue to the applicant registration decals and a registration card which state the number assigned to the motorboat or sailboat and the name and address of the owner.

(b) The registration card shall be available for inspection on the motorboat or sailboat for which it was issued, whenever that motorboat or sailboat is in operation.

(4) The assigned number shall:

(a) be painted or permanently attached to each side of the forward half of the motorboat or sailboat;

(b) consist of plain vertical block characters of not less than three inches in height;

(c) contrast with the color of the background and be distinctly visible and legible;

(d) have spaces or hyphens equal to the width of a letter between the letter and numeral groupings; and

(e) read from left to right.

R651-208. Backing Plates.

R651-208-1. On vessels where an assigned number on the hull or superstructure would not be visible or where the type of hull material used would make it impractical to attach an assigned number, the assigned number and registration decals may be mounted on a backing plate and displayed as required in Subsection 73-18-7 (4) of the Utah Code Annotated and Rule R651-212.

73-18-7. (5) Any vessel which has a valid marine document issued by the United States Coast Guard is exempt from the number display requirements of Subsection (4).

(6) The nonresident owner of any motorboat or sailboat already covered by a valid number, which has been assigned to it pursuant to federal law or a federally-approved numbering system of his resident state, shall be exempt from registration while operating the motorboat or sailboat on the waters of this state unless he is operating in excess of the reciprocity period provided for in Subsection 73-18-9 (1).

(7)(a) If the ownership of a motorboat or sailboat changes, a new application form with the fee shall be filed with the division and a new registration card and registration decals shall be issued in the same manner as provided for in Subsections (2) and (3).

(b) The current number assigned to the vessel shall be reassigned to the new owner to display on the motorboat or sailboat.

(8) If the United States Coast Guard has in force an overall system of identification numbering for motorboats or sailboats within the United States, the numbering system employed under this chapter by the board shall be in conformity with that system.

(9) The division may authorize any person to act as its agent for the registration of motorboats and sailboats. Any number assigned and any registration card and registration decals issued by an agent of the division in conformity with this chapter and rules of the board shall be valid.

(10)(a) All records of the division made or kept pursuant to this section shall be classified by the Motor Vehicle Division in the same manner as motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle record pursuant to Section 41-1a-116.

(11) Each registration, registration card, and decal issued under this chapter shall continue in effect for a period set by the board. A registration may be renewed by the owner in the same manner provided for in the initial application. The current number assigned to the vessel shall be reassigned when the registration is renewed.

(12) The board shall fix a day and month of the year on which registrations, registration cards, and registration decals expire.

R651-209. Registration Expiration.

R651-209-1. The registration decals and cards shall expire annually on the last day of April.

73-18-7. (13)(a) The owner shall notify the division of the transfer of all or any part of his interest, other than creation of a security interest, in a motorboat or sailboat registered in this state under Subsections (2) and (3) or of the destruction or abandonment of the motorboat or sailboat.

(b) This notification must take place within 15 days of the transfer, destruction, or abandonment.

(c) The transfer, destruction, or abandonment of a motorboat or sailboat terminates its registration except that in the case of a transfer of a part interest which does not affect the owner's right to operate a motorboat or sailboat, the transfer shall not terminate the registration.

(14)(a) The registered owner shall notify the division within 15 days if his address changes from the address appearing on the registration card and shall, as a part of this notification, furnish the division with his new address.

(b) The board may provide in its rules for the surrender of the registration card bearing the former address and its replacement with a new registration card bearing the new address, or for the alteration of an outstanding registration card to show the new address of the holder.

R651-210. Change of Address.

R651-210-1. The registered owner of a motorboat or sailboat, after notifying the division or agent of the division of his change of address, shall note the new address on his current registration card.

73-18-7. (15)(a) If the registration card is lost or stolen, a fee of \$4 may be collected by the division for the issuance of a duplicate.

(b) If the registration decals are lost or stolen, a fee of \$3 may be collected by the division for the issuance of duplicate decals.

(16) No number other than the number assigned to a motorboat or sailboat or a number for a motorboat or sailboat granted reciprocity under this chapter may be painted, attached, or otherwise displayed on either side of the bow of a motorboat or sailboat.

(17) A motorboat or sailboat registration and number shall be invalid if obtained by knowingly falsifying an application for registration.

(18) The board may:

- (a) designate the suffix to assigned numbers;

R651-211. Assigned Numbers.

R651-211-1. The assigned number will consist of the prefix letters, "UT", to designate the State of Utah, one to four numerals, and two suffix letters to designate county or other information. The suffix letters are: AB - Airboat; BV - Beaver; BE - Box Elder; CA - Cache; CC and CN - Carbon; DG - Daggett; DA, DB, and DC - Davis; DL - marine dealer or manufacturer; DU - Duchesne; EM - Emery; EX - Exempt; GA - Garfield; GR - Grand; RN - Iron; JU - Juab; KA - Kane; MD - Millard; MN - Morgan; PT - Piute; RH - Rich; SA, SB, SC, SD, SG, SH, SL and ST - Salt Lake; SJ - San Juan; SP - San Pete; SE and SF - Sevier; SU - Summit; TE - Tooele; UN - Uintah; UA, UB and UT - Utah; WA - Wasatch; WN - Washington; WE and WY - Wayne; WB, WC and WD - Weber.

- 73-18-7. (18)(b) adopt rules for the display of registration decals;

R651-212. Display of Registration Decals.

R651-212-1. A registration decal shall be displayed three inches aft of the assigned number on each side of the vessel. On documented vessels, decals shall be displayed on each side of the forward half of the vessel. Only current-year registration decals may be displayed.

- 73-18-7. (18)(c) adopt rules for the issuance and display of dealer numbers and registrations; and

R651-213. Dealer Numbers and Registrations.

R651-213-1.

(1) Each person acting as a vessel dealer who has an established place of business and is engaged in the business of selling motorboats and/or sailboats shall make application to the Division of Motor Vehicles, who is acting as agent for the division, to obtain dealer numbers and registration decals.

- (2) The application shall contain the following information:

- (a) the name of the business;
 - (b) the business address;
 - (c) the business owner's name (if the business is a corporation, the names of the principal officers of the corporation);
 - (d) the type of vessels offered for sale; and

(e) the manufacture line of vessels which the dealer holds franchise from the manufacturer to sell. Attached to the application shall be copies of the appropriate city, county, and state licenses required to do business in this state.

(3) Upon filing the application by the dealer, the Division of Motor Vehicles may assign dealer numbers and registration decals to the dealer.

(4) Dealer numbers and registration decals are valid only when demonstrating a motorboat or sailboat to a prospective purchaser and the dealer or employee of the dealer is present during the demonstration.

(5) Every vessel dealer who obtains dealer numbers and registration decals is responsible to maintain the numbers and to control their use.

(6) Dealer numbers and registration decals are not valid on any vessel which is a rental or lease unit, or on a vessel which is not part of the dealer inventory and available for immediate sale.

(7) Dealer numbers and registration decals shall not be permanently attached to any vessel, but shall be mounted and displayed on a backing plate.

(8) If the Division of Motor Vehicles has reasonable grounds to believe that a dealer has failed to comply with any of the above provisions, after notice to the dealer and a hearing, dealer numbers and registration decals may be suspended. Upon suspension, the dealer will surrender all of his dealer numbers and registration decals to the Division of Motor Vehicles within 15 days.

73-18-7. (18)(d) adopt rules for the issuance and display of temporary registrations.

R651-214. Temporary Registration

R651-214-1.

(1) A vessel dealer may apply for temporary registrations to be used on motorboats or sailboats sold by his business. The application to obtain temporary registrations is the same as outlined in Section R651-213 (1).

(2) Each temporary registration will be valid for a period not to exceed 30 days from date of issue.

(3) A temporary registration will not be valid on any motorboat or sailboat held in the dealer's inventory for sale or any motorboat or sailboat not sold by the same dealer who issued the registration.

(4) A dealer shall not issue more than one temporary registration for any motorboat or sailboat.

(5) A dealer who obtains temporary registrations will be responsible for their issuance and is required to maintain records of each registration obtained and issued. Dealer records will contain a description of the vessel sold, the name and address of the purchaser, and the date issued.

(6) Temporary registration records kept by the dealer shall be made available for inspection and audit by authorized agents of the Division of Motor Vehicles during regular business hours.

(7) If the Division of Motor Vehicles has reasonable grounds to believe that a dealer has failed to comply with any of the above provisions, after notice to the dealer and a hearing, temporary registration issuance privileges may be canceled. Upon cancellation, the dealer will surrender all unissued temporary registrations to the Division of Motor Vehicles within 15 days.

73-18-7.1. Fraudulent application for registration or certificate of title.

A person is guilty of a third degree felony if he:

(1) fraudulently uses a false or fictitious name in any application for a registration or certificate of title for a motorboat, sailboat, or outboard motor; or

(2) in making an application specified in Subsection (1), he:

(a) knowingly makes a false statement;

(b) knowingly conceals a material fact; or

(c) otherwise commits a fraud.

73-18-7.2. Falsified registration or certificate of title.

It is a third degree felony for any person to:

(1) alter with fraudulent intent any motorboat or sailboat certificate of title, registration card, or registration decal or outboard motor certificate of title issued by the division or its authorized agent;

(2) forge or counterfeit any motorboat or sailboat certificate of title, registration card, or registration decal or outboard motor certificate of title purporting to have been issued by the division or its authorized agent;

(3) alter, falsify, or forge any assignment upon a motorboat, sailboat, or outboard motor certificate of title; or

(4) hold or use any motorboat or sailboat certificate of title, registration card, or registration decal or outboard motor certificate of title knowing it has been altered, forged, or falsified.

73-18-7.3. Suspension or revocation of a registration or certificate of title.

The division or its authorized agent may suspend or revoke the registration or certificate of title of a motorboat, sailboat, or outboard motor if:

- (1) the division or its authorized agent determines that the registration or certificate of title was fraudulently or erroneously issued;
- (2) the division or its authorized agent determines that a registered motorboat or sailboat is mechanically unfit or unseaworthy for operation on the waters of this state;
- (3) a registered motorboat or sailboat has been dismantled or wrecked so that it loses its character as a vessel;
- (4) the division or its authorized agent determines that the required registration or titling fee has not been paid or is not paid upon reasonable notice and demand;
- (5) a registration decal or number is knowingly displayed upon a motorboat or sailboat other than the one for which the decal or number was issued;
- (6) the division or its authorized agent determines that the owner has committed any offense under this chapter or Title 41, Chapter 1a Part 5, involving the registration or certificate of title of a motorboat, sailboat, or outboard motor; or
- (7) the division or authorized agent is so authorized under any other provision of law.

73-18-7.4. Canceled, suspended, or revoked registration or certificate of title to be returned.

If the division or its authorized agent cancels, suspends, or revokes the registration or certificate of title of a motorboat, sailboat, or outboard motor, the owner shall immediately return the canceled, suspended, or revoked registration card, registration decal, or certificate of title to the division or authorized agent.

73-18-8. Safety equipment required to be on board vessels.

(1)(a) Except as provided in Subsection (1)(c), each vessel shall have, for each person on board, one personal flotation device which is approved for the type of use by the commandant of the United States Coast Guard.

(b) Each personal flotation device shall be:

- (i) in serviceable condition;

(ii) legally marked with the United States Coast Guard approval number;
and

(iii) of an appropriate size for the person for whom it is intended.

(c)(i) Sailboards are exempt from the provisions of Subsection (1)(a).

(ii) The board may exempt certain types of vessels from the provisions of Subsection (1)(a) under certain conditions or upon certain waters.

R651-215. Personal Flotation Devices.

R651-215-1. Definitions.

(1) “PFD” means personal flotation device.

(2) “Vessel length” is the measurement of the permanent part of the hull, from bow to stern, across the deck down the centerline, excluding sheer.

(3) “Wear” means to have the PFD properly worn with all fasteners connected.

(4) “Whitewater canoe” means a one or two person capacity hard hulled canoe designed for whitewater activities and is equipped with: floatation (e.g., factory end chambers or float bags) and thigh straps or retention devices to hold the operator(s) in the vessel if it rolls.

R651-215-2. PFD Requirements for Vessels Less than 16 Feet in Length.

No person shall operate or give permission for the operation of a vessel less than 16 feet in length unless there is at least one type I, II, or III PFD for each person on board.

R651-215-3. PFD Requirements for Vessels 16 Feet or More in Length.

No person shall operate or give permission for the operation of a vessel 16 feet or more in length unless there is at least one type I, II, or III PFD for each person on board. In addition to the total number of PFD’s, there shall also be one Type IV PFD on board.

R651-215-4. Types of Personal Flotation Devices.

Type I - Life Preserver - has 22 pounds of flotation and will turn an unconscious person face up. Acceptable for use on all vessels.

Type II - Buoyant Vest - has 15.5 pounds of flotation and will turn most unconscious persons face up.

Type III - Special Purpose - has 15.5 pounds of buoyancy. There are many special designs for water sports.

Type IV - Throwable - has 16.5 pounds of flotation and is designed to be thrown, not worn. Must have as an additional device on vessels 16 feet or more in length.

Type V - Restricted Special Purpose Devices - approved only for the activities listed on the label.

R651-215-5. Immediately Available and Readily Accessible.

Type IV PFDs shall be immediately available; all other types of PFD shall be readily accessible, unless wearing is required.

R651-215-6. Type V PFD Carried in Lieu.

A Type V PFD may be carried in lieu of any required PFD, but only if the Type V PFD is approved for the activity in which the vessel is being used.

R651-215-7. Whitewater River PFD Requirements.

On whitewater rivers, as defined in Subsection R651-206-2 (1), Type I or Type III PFDs, if approved on the label for the activity, are required.

R651-215-8. Carrying Passengers for Hire PFD Requirements on Rivers.

On rivers, if carrying passengers for hire, Type I PFDs are required, except hard hulled kayak or whitewater canoe operators or a working river guide may wear a Type III PFD, if approved on the label for this activity. The required Type IV PFD shall be a ring life buoy on vessels 26 feet or more in length.

R651-215-9. River Throw Bag in Lieu of Type IV PFD.

On rivers, in lieu of the Type IV PFD requirement, a throw bag with a minimum of 40 feet of line may be carried.

R651-215-10. Passengers for Hire PFD Requirements.

When carrying passengers for hire, except on rivers, Type I PFDs are required. The required Type IV PFD shall be a ring life buoy on vessels 26 feet or more in length.

73-18-8. (1)(d) The board may require by rule for personal flotation devices to be worn:

- (i) while a person is on board a certain type of vessel;
- (ii) by a person under a certain age; or
- (iii) on certain waters of this state.

R651-215-11. Required Wearing of PFDs.

(1) An inflatable PFD may not be used to meet the requirements of this Section.

(2) All persons on board a personal watercraft shall wear a PFD.

(3) The operator of a vessel under 19 feet in length shall require each passenger 12 years of age or younger to wear a PFD. This rule is also applicable to vessels 19 feet or more in length, except when the child is inside the cabin area.

(4) On rivers, every person on board a vessel shall wear a PFD, except PFDs may be loosened or removed by persons 13 years of age or older on designated flat water areas as listed in Section R651-215-12. When carrying passengers for hire, the river guide is responsible for the passengers on his vessel to be in compliance with this Subsection.

R651-215-12. River Flat Water Areas.

(1) On the Green River:

(a) from Red Creek Camp below Red Creek Rapids to the Indian Crossing Boat Ramp;

(b) from 100 yards below Taylor Flats Bridge to the Utah/Colorado state line in Browns Park;

(c) within Dinosaur National Monument, from the mouth of Whirlpool Canyon to the head of Split Mountain Gorge;

(d) from the mouth of Split Mountain to Jack Creek in Desolation Canyon; and

(e) from the Green River Diversion Dam below Gray Canyon to the confluence with the Colorado River.

(2) On the Colorado River:

(a) from the Colorado/Utah state line to the Westwater Ranger Station;

(b) from Big Hole Canyon in Westwater Canyon to Onion Creek;

(c) from Drinks Canyon, mile 70, to the confluence with the Green River; and

(d) after the last active rapid in Cataract Canyon.

(3) On the San Juan River, after the last active rapid prior to Lake Powell.

73-18-8. (1)(e) For vessels 16 feet or more in length, there shall also be on board, one Type IV throwable personal flotation device which is approved for this use by the commandant of the United States Coast Guard.

(2) Each vessel shall display navigation lights when the vessel is on the waters of this state between sunset and sunrise.

R651-216. Navigation Lights.

Figure 1

Figure 2

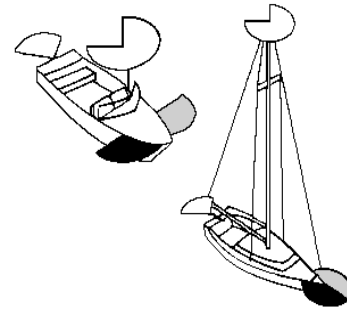
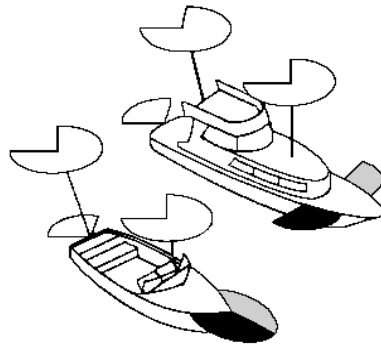
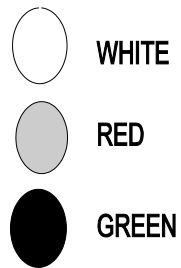


Figure 3

Figure 4

Figure 5

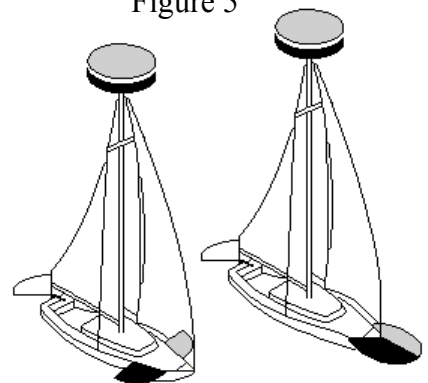
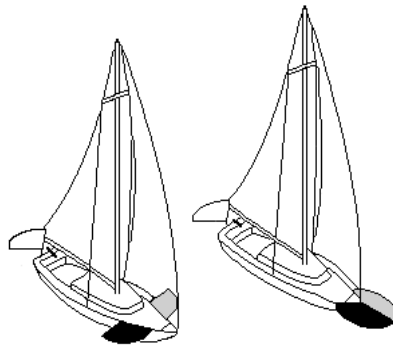
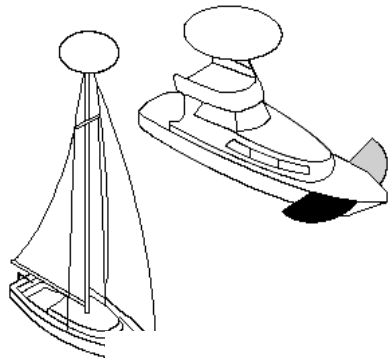


Figure 6

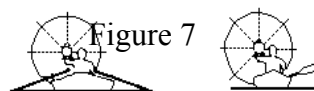
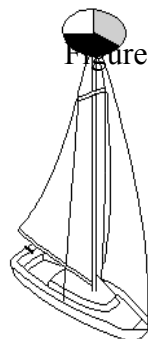


Figure 7

R651-216-1. Motorboats less than 40 feet in length shall exhibit the navigation lights shown in either figure 1, 2, or 3.



R651-216-2. Motorboats 40 feet to less than 65 feet in length shall exhibit the navigation lights shown in either figure 1 or 2.







R651-216-3. Sailboats shall exhibit the navigation lights shown in either figure 4, 5, or 6.

R651-216-4. A sailboat under motor power shall exhibit the motorboat navigation light requirements.

R651-216-5. A vessel manually propelled may exhibit the navigation lights required for sailboats or have ready at hand a flashlight or lighted lantern showing a white light which shall be displayed in sufficient time to prevent collision (figure 7).

R651-216-6. Vessels at anchor shall display an all-round white anchor light unless anchored in a designated mooring area.

R651-216-7. Visible Range.

Location of Lights on Vessel	Visible Range		Degree of Arc Lights
	Less than 12 m.	12m. but less than 20m.	
in miles			
 Masthead	2	3	225°
 All-round	2	2	360°
 Side lights	1	2	112.5° each color
 Stern light	2	2	135°

R651-216-8. Vessels may only display lights as outlined above except:

(a) a spotlight or other non-navigational light may be used intermittently to locate a hazard to navigation, or

(b) non-navigational lights may be used during a federal or state permitted marine parade.

73-18-8. (3) If a vessel is not entirely open and it carries or uses any flammable or toxic fluid in any enclosure for any purpose, the vessel must be equipped with an efficient natural or mechanical ventilation system which is capable of removing resulting gases prior to and during the time the vessel is occupied by any person.

(4) Each vessel shall have fire extinguishing equipment on board.

R651-217. Fire Extinguishers.

R651-217-1. All motorboats, unless exempt, must have on board the approved fire extinguisher as specified in Rule R651-217-2.

R651-217-2. Fire Extinguishers Required.

<u>Length of Motorboat</u>	<u>Number/Size</u>
Less than 26 feet in length *	1/B-I
26 feet to less than 40 feet in length	2/B-I or 1/B-II
40 feet to 65 feet in length	3/B-I or 1/B-I & 1/B-II

* If an outboard motorboat of open construction and not carrying passengers for hire, a fire extinguisher is not required (see Rule R651-217-5).

R651-217-3. Fire Extinguisher Types.

<u>Listing</u>	<u>Types: Foam</u>	<u>Carbon Dioxide</u>	<u>Dry Chemical</u>	<u>Halon</u>
B-I	1.25 gal	4 lbs	2 lbs	2.5 lbs
B-II	2.5 gal	15 lbs	10 lbs	10 lbs

R651-217-4. When the engine compartment is equipped with a fixed extinguishing system, one less B-I extinguisher is required.

R651-217-5. An outboard motorboat is not considered “of open construction” if any one of the following conditions exist: closed compartment under thwarts (motor well) and seats where portable fuel tanks may be stored; double bottoms not sealed to the hull or which are not completely filled with flotation material; closed living spaces; closed stowage compartments in which combustible or flammable materials are stored; or permanently installed fuel tanks.

73-18-8. (5) Any inboard gasoline engine shall be equipped with a carburetor backfire flame control device.

R651-218. Carburetor Backfire Flame Control.

R651-218-1.

(1) The following are acceptable means of backfire flame control:

(a) an approved flame arrestor secured to the air intake with flamtight connection;

(b) an approved engine air and fuel induction system; or

(c) an attachment to the carburetor or location of the engine air induction system where a flame caused by engine backfire will be dispersed outside the vessel in a manner that the flame will not endanger the vessel or passengers. All attachments shall be of metallic construction with flamtight connections and secured to withstand vibration, shock, and engine backfire.

73-18-8. (6) The board may:

(a) require additional safety equipment by rule; and

(b) adopt rules conforming with the requirements of this section which govern specifications for and the use of safety equipment.

R651-219. Additional Safety Equipment.

R651-219-1. Sound Producing Device.

(1) Vessels 16 feet to less than 40 feet in length shall have on board a means of making an efficient sound, horn or whistle, capable of a four-to-six-second blast.

(2) Vessels 40 feet to less than 65 feet in length shall have on board a horn and a bell. The horn shall be capable of a four-to-six-second blast and audible for one half mile. The bell shall be designed to give a clear tone.

R651-219-2. Bailing Device.

All vessels, not of self-bailing design, shall have on board an adequate bail bucket or be equipped with a mechanical means for pumping the bilge.

R651-219-3. Spare Propulsion.

Vessels less than 21 feet in length shall have on board at least one spare motor, paddle or oar capable of maneuvering the vessel when necessary. On rivers when one-or-two-man capacity vessels less than 16 feet in length are traveling in a group, the above requirement may be met by carrying one spare oar or paddle for every three vessels in the group. On hard hulled white water kayaks, paddles designed to be strapped to or worn on the hand meet this requirement.

R651-219-4. Airboat Requirements.

Airboats operated on the Great Salt Lake and adjacent refuges shall also have on board a compass and one of the following: approved flares, a strobe light, or other visual distress signal.

R651-219-5. Equipment Good and Serviceable.

All required safety equipment shall be in good and serviceable condition.

R651-219-6. Law Enforcement Vessels.

No vessel operator except authorized law enforcement and emergency vessel operators may display red or blue flashing lights or sound a siren on any waters of this state.

R651-219-7. Equipment Exemptions.

(1) Sailboards and personal watercraft are exempt from the following rules: Section R651-219-2 bail buckets; Section R651-219-3 spare propulsion; and Section R651-225-4 prohibiting riding on exterior surfaces.

(2) Vessels owned by the Lagoon Corporation and operated by its employees or customers under the controlled use and confines of the Lagoon Amusement Park waterways are exempt from the following sections: R651-215-11 (3), R651-219-2, and R651-219-3.

(3) Vessels owned by the Salt Lake Airport Hilton Inn and operated by its employees or customers under the controlled use and confines of the Salt Lake Airport Hilton Inn waterways are exempt from the following sections: R651-219-2 and R651-219-3.

(4) Racing vessels participating in a sanctioned race may be exempted from certain equipment requirements by the division upon written request to the division. The equipment exemption shall only be in effect the day before and the day of the race if conditions of the exemption are met.

73-18-8. (7) A person may not operate or give permission for the operation of a vessel which is not equipped as required by this section or rules promulgated under this section.

73-18-8.1. Capacity and certification label.

(1) Each vessel manufactured after November 1, 1972, which is less than 20 feet in length, except a sailboat, canoe, kayak, inflatable vessel, or homemade motorboat must have a United States Coast Guard capacity and certification label permanently affixed to the vessel and clearly visible to the operator when boarding or operating the vessel. The capacity and certification information may be combined together and displayed on one label.

(2) No person shall operate, or give permission for the operation of, any vessel on the waters of this state if it is loaded or powered in excess of the maximum capacity information on the United States Coast Guard capacity label.

(3) No person shall alter, deface, or remove any United States Coast Guard capacity or certification information label affixed to a vessel.

(4) No person shall operate, or give permission for the operation of, a vessel on the waters of this state if the required United States Coast Guard capacity or certification information label has been altered, defaced, or removed.

73-18-9. Exemptions from registration.

Registration under this chapter is not required for any of the following:

- (1) a motorboat or sailboat already covered by a valid registration issued by its nonresident owner's resident state and it has not been within this state in excess of 14 days for the calendar year;
- (2) a motorboat or sailboat from a country other than the United States temporarily using the waters of this state;
- (3) a motorboat or sailboat whose owner is the United States, a state or subdivision thereof;
- (4) a ship's lifeboat; or
- (5) a motorboat or sailboat belonging to a class of vessels which is exempted from registration by the board after the board finds:
 - (a) that the registration of motorboats or sailboats of this class will not materially aid in their identification; and
 - (b) that the United States Coast Guard has a numbering system applicable to the class of motorboats or sailboats to which the motorboat or sailboat in question belongs, and the motorboat or sailboat would also be exempt from numbering if it were subject to federal law.

R651-220. Registration and Numbering Exemptions.

R651-220-1. Racing vessels owned by nonresidents, if not required to be registered and numbered in their resident state, are exempt from the registration and numbering requirements of this chapter. This exemption is valid only at the race site, on the day before and the day of a division authorized race.

R651-220-2. A sailboard is exempt from the registration and numbering requirements of this chapter.

73-18-10. Owner of boat livery - Duties.

(1) The owner of a boat livery shall keep a record of the following: the name and address of the person hiring any vessel; the identification number of the vessel; the vessel's departure date and time; and the vessel's expected time of return. The record shall be preserved for at least one year.

(2) Neither the owner of a boat livery, nor his agent or employee may permit any vessel to depart from the premises of the boat livery unless the owner has equipped it as required under this

chapter and unless he has advised the lessee or renter of the vessel of all rules promulgated under this chapter which the lessee or renter must obey.

R651-221. Boat Livery Agreements.

R651-221-1. The owner of a boat livery or his representative shall provide a copy of the lease or rental agreement to an authorized agent of the Division, signed by the owner or his representative and by the person leasing or renting the vessel. The lease or rental agreement shall contain the following information and be carried on board the vessel: the vessel's assigned number; the period of time for which the vessel is leased or rented; and a check-off list of the required safety equipment. The registration card may be retained on shore by the boat livery.

73-18-11. Regulation of muffling devices.

The board shall adopt rules for the regulating of muffling devices on all vessels.

R651-222. Muffling Requirements.

R651-222-1. Mufflers Required.

Every motorboat operated upon the waters of this State shall at all time be equipped with a muffler or a muffler system in good working order and in constant operation and effectively installed to prevent any excessive or unusual noise.

R651-222-2. Muffler Defined.

"Muffler" means a sound suppression device or system designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and prevents excessive or unusual noise.

R651-222-3. Maximum Sound Level SAE J2005.

No person shall operate or give permission for the operation of any motorboat upon the waters of this state in such a manner as to exceed the following noise levels:

(1) For engines manufactured before January 1, 1993, a noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by test SAE J2005; or

(2) for engines manufactured on or after January 1, 1993, a noise level of 88dB(A) when subjected to a stationary sound level test as prescribed by test SAE J2005.

R651-222-4. Maximum Sound Level SAE J1970.

After January 1, 1992 no person shall operate a motorboat on the waters of this state in such a manner as to exceed a noise level of 75dB(A) measured as specified in test SAE J1970. Provided, that such measurement shall not preclude a stationary sound level test as prescribed by SAE J2005.

R651-222-5. Muffler Bypass or Alteration Prohibited.

(1) No person shall operate or give permission for the operation of any motorboat upon the waters of this state that is equipped with an altered muffler, muffler cutout, muffler bypass, or other device designed or installed so that it can be used to continually or intermittently bypass; or reduce or eliminate the effectiveness of any muffler or muffler system installed on a motorboat.

(2) Rule R651-222-5 (1) shall not apply to a motorboat equipped with a muffler cutout, muffler bypass, or other device designed or installed so that it can be used to continually or intermittently bypass; or reduce or eliminate the effectiveness of any muffler or muffler system installed on a motorboat, if the mechanism has been permanently disconnected or made inoperable, where it cannot be operated in the manner described in Rule R651-222-5 (1).

R651-222-6. Muffler Removal Prohibited.

No person shall remove, alter, or otherwise modify in any way a muffler or muffler system on a motorboat, in a manner that will prevent the motorboat from complying with rule R651-222-3.

R651-222-7. Mufflers Required on Motorboats Sold.

(1) No person shall manufacture, sell, or offer for sale any motorboat:

- (a) that is not equipped with a muffler or muffler system; or
- (b) that does not comply with rule R651-222-3.

(2) This rule shall not apply to motorboats designed, manufactured and sold for the sole purpose of competing in racing events only and for no other purpose. Any motorboat exempted under this rule shall be documented as such in the sales agreement and shall be formally acknowledged by signature of the buyer and seller and copies of the agreement shall be maintained by both parties. A copy of the agreement shall be kept on board whenever the motorboat is operated. Any motorboat sold under this exemption may only be operated on the waters of this State in accordance with rule R651-222-8.

R651-222-8. Muffler Exemptions.

Except as outlined in rule R651-222-7, the operational provisions of this rule shall not apply to:

- (1) motorboats registered in and actually participating in a racing event authorized by the Division or scheduled tuneup periods prior to the racing event; or
- (2) to a motorboat being operated by a boat or engine manufacturer for the purpose of testing and/or development and the testing has been authorized by the Division.

R651-222-9. Enforcement.

A peace officer who has reason to believe that a motorboat is being operated in excess of the noise levels established in rule R651-222-3, may direct the operator of the motorboat to

submit the motorboat to an on-site test to measure the noise level. If the motorboat exceeds the established decibel level, in addition to issuing a summons, the officer may direct the operator to return to the point of embarkation and prohibit operation of the motorboat until the motorboat meets the established decibel level.

73-18-12. Operation in willful or wanton disregard for safety -- Penalty.

(1) A person may not operate any nonmotorized vessel, or manipulate any water skis or any device towed by a motorboat in a willful or wanton disregard for the safety of persons or property.

(2) A violation of Subsection (1) is a class B misdemeanor.

73-18-13. Duties of operator involved in accident - Notification and reporting procedure - Use of accident reports - Penalty for giving false information.

(1) It is the duty of the operator of a vessel involved in an accident, if he can do so without seriously endangering his own vessel, crew, or passengers, to render aid to those affected by the accident as may be practicable. The operator shall also give his name, address, and identification of his vessel in writing to any person injured or to the owner of any property damaged in the accident.

(2) The board shall adopt rules governing the notification and reporting procedure for vessels involved in accidents. Such rules shall be consistent with federal requirements.

R651-223. Vessel Accident Reporting.

R651-223-1. An operator shall immediately and by the quickest means of communication available notify the nearest state park ranger or other law enforcement officer of an accident that involves a vessel or its equipment when one of the following occurs: a person dies or disappears from a vessel under circumstances that indicate death; a person is injured and receives medical treatment beyond first aid; or property is damaged in excess of \$2,000.

This notification shall include:

- (a) the date, time, and location of the occurrence;
- (b) the name of each person who died or disappeared;
- (c) the assigned number of the vessel; and
- (d) the name and address of the owner and operator.

R651-223-2. If the operator cannot provide this notification, then another person on board shall make the notification required in rule R651-223-1.

R651-223-3. The operator, owner, or other person on board shall submit a completed and signed Owner/Operator Boating Accident Report (PR-53A) to the division within 10 days of the accident.

73-18-13. (3) All accident reports shall be for the confidential use of the division or other state agencies having use for the records for accident prevention purposes, except that the division may disclose the identity of a person involved in an accident when the person's identity is not otherwise known or when the person denies his presence at the accident. No report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the division shall furnish upon demand of any person who has, or claims to have, made the report, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the division solely to prove a compliance or a failure to comply with the requirement that a report be made to the division. Reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (4).

(4) Any person who gives false information, knowingly or having reason to believe it is false, in an oral or written report as required in this chapter, is guilty of a class A misdemeanor.

73-18-13.5. Personal watercraft accidents -- Investigation and report of operator security -- Agency action if no security -- Surrender of registration materials.

(1) Upon request of a peace officer investigating an accident involving a personal watercraft, the operator of the personal watercraft shall provide evidence of the owner's or operator's security required under Section 73-18c-301.

(2) The peace officer shall record on a form approved by the division:

(a) the information provided by the operator;

(b) whether the operator provided insufficient or no information; and

(c) whether the peace officer finds reasonable cause to believe that any information given is not correct.

(3) The peace officer shall deposit all completed forms with the peace officer's agency, which shall forward the forms to the division no later than ten days after receipt.

(4) (a) The division shall revoke the registration of a personal watercraft involved in an accident unless the owner or operator can demonstrate to the division compliance with the owner's or operator's security requirement of Section 73-18c-301 at the time of the accident.

(b) Any registration revoked may not be renewed for a period of one year following the date of revocation.

(5) A person may appeal a revocation issued under Subsection (4) in accordance with procedures established by the board by rule that are consistent with Title 63, Chapter 46b, Administrative Procedures Act.

(6) (a) Any person whose registration is revoked under Subsection (4) shall return the registration card and decals for the personal watercraft to the division.

(b) If the person fails to return the registration materials as required, they shall be confiscated under Section 73-18-13.6.

(7) The board may make rules for the enforcement of this section.

(8) In this section, “evidence of owner's or operator's security” includes any one of the following:

(a) the operator's:

(i) insurance policy;

(ii) binder notice;

(iii) renewal notice; or

(iv) card issued by an insurance company as evidence of insurance;

(b) a copy of a surety bond, certified by the surety, which conforms to Section 73-18c-103;

(c) a certificate of the state treasurer issued under Section 73-18c-305; or

(d) a certificate of self-funded coverage issued under Section 73-18c-306.

73-18-13.6. Grounds for confiscation of registration materials by state -- Additional fee for reinstatement.

(1) (a) The division, any peace officer acting in an official capacity, or a person authorized under Subsection (2) may take possession of any registration card or decal issued by the state:

(i) upon revocation of it;

(ii) that is fictitious;

(iii) that has been unlawfully or erroneously issued; or

(iv) that is unlawfully or erroneously displayed.

(b) A receipt shall be issued that describes each confiscated item.

(2) The division may enter into contractual agreements with constables or other law enforcement agencies to facilitate confiscation of items listed in Subsection (1) if a person fails or refuses to surrender any of those documents to the division upon demand.

(3) The division shall assess against a person making an application to renew a registration, a fee, which shall be paid before the person's registration is renewed, to cover any costs of confiscating that person's registration materials.

73-18-14. Transmittal of information to official or agency of United States.

In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the division under Subsection 73-18-13 (2) shall be transmitted to the official or agency of the United States.

73-18-15. Board to adopt rules concerning water skiing and aquaplane riding and use of other devices towed behind a vessel.

The board shall adopt rules for the regulation and safety of water skiing and aquaplane riding, and the use of other devices which are towed behind a vessel.

R651-224. Towed Devices.

R651-224-1. The operator of a vessel which is towing a person on water skis or other devices shall be responsible for maintaining a safe course with proper lookout. The progress of the person under tow shall be reported to the vessel operator by the observer.

R651-224-3. The operator of a vessel shall be responsible for a flag to be displayed by the observer in a visible manner to other boaters in the area while the person to be towed is in the water, either preparing to be towed or finishing a tow. The flag shall be international orange at least 12 inches square and mounted on a handle.

R651-224-4. The operator of a vessel which is towing a person(s) on water skis or other devices shall require each person who is water skiing or using other devices to wear a United States Coast Guard approved personal flotation device (PFD), except an inflatable PFD may not be used.

R651-224-5. The operator of a vessel which is towing a person(s) on water skis or other devices shall use a vessel with sufficient carrying capacity, as defined by the manufacturer, for the occupant(s) onboard and the person(s) being towed.

73-18-15.1. Vessel navigation and steering laws.

(1) The operator of a vessel shall maintain a proper lookout by sight and hearing at all times to avoid the risk of collision.

(2) When the operators of two motorboats approach each other where there is risk of collision, each operator shall alter course to the right and pass on the left side of the other.

(3) When the operators of two motorboats are crossing paths and are at risk of a collision, the operator of the vessel which has the other vessel on its right side shall keep out of the way and yield right-of-way if necessary.

(4) The operator of any vessel overtaking any other vessel shall keep out of the way of the vessel being overtaken.

(5) The operator of a vessel underway shall keep out of the way of a:

- (a) vessel not under command;
- (b) vessel restricted in its ability to maneuver;
- (c) vessel engaged in fishing; and
- (d) sailing vessel.

(6) If the operator of one of two vessels is to keep out of the way, the other vessel operator shall maintain his course and speed unless it becomes apparent the other vessel is not taking the appropriate action.

(7) In narrow channels an operator of a vessel underway shall keep to the right of the middle of the channel.

(8) The operator of a vessel shall proceed at a safe speed at all times so that he can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances or conditions.

(9) (a) When the operators of two sailboats are approaching one another so as to involve risk of collision, one of the operators shall keep out of the way of the other as follows:

(i) when each has the wind on a different side, the operator of the vessel which has the wind on the left side shall keep out of the way of the other;

(ii) when both have the wind on the same side, the operator of the vessel which is to the windward shall keep out of the way of the vessel which is to leeward; and

(iii) if the operator of a vessel with the wind on the left side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the left or on the right side, the operator shall keep out of way of the other vessel.

(b) For purposes of this Subsection (9), the windward side shall be the side opposite that on which the mainsail is carried.

(10) The operator of any vessel may not exceed a wakeless speed when:

- (a) within 150 feet of:
 - (i) another vessel;
 - (ii) a person in or floating on the water;
 - (iii) a water skier being towed by another boat;
 - (iv) a shore fisherman;
 - (v) a launching ramp;
 - (vi) a dock; or
 - (vii) a designated swimming area; or
- (b) in an area designated as a wakeless speed area.

(11) The operator of a motorboat is responsible for any damage or injury caused by the wake produced by the operator's motorboat.

(12) (a) Except as provided in Subsection (12)(b), the operator of a motorboat that is less than 65 feet in length may not exceed a wakeless speed while any person is riding upon the bow decking, gunwales, transom, seatbacks, or motor cover.

(b) Subsection (12)(a) does not apply if the motorboat is:

- (i) between 16 feet and 65 feet in length; and
- (ii) the motorboat is equipped with adequate rails or other safeguards to prevent a person from falling overboard.

(13) If a person is riding upon the bow decking of a motorboat which does not have designed seating for passengers, the person shall straddle one of the upright supports of the bow rail and may not block the vision of the operator.

(14) The operator of a vessel may not tow a water skier or a person on another device:

- (a) unless an onboard observer, who is at least eight years of age, is designated by the operator to watch the person being towed; or
- (b) between sunset and sunrise.

(15) The operator of a vessel being operated between sunset and sunrise shall display lighted navigation lights approved by the division.

(16) A person who violates this section is guilty of a class C misdemeanor.

73-18-15.2. Minimum age of operators -- Boating safety course for youth to operate personal watercraft.

(1) (a) A person under 16 years of age may not operate a motorboat on the waters of this state unless the person is under the on-board and direct supervision of a person who is at least 18 years of age.

(b) A person under 16 years of age may operate a sailboat, if the person is under the direct supervision of a person who is at least 18 years of age.

(2) A person who is at least 12 years of age or older but under 16 years of age may operate a personal watercraft provided he:

(a) is under the direct supervision of a person who is at least 18 years of age;

(b) completes a boating safety course approved by the division; and

(c) has in his possession a boating safety certificate issued by the boating safety course provider.

(3) A person who is at least 16 years of age but under 18 years of age may operate a personal watercraft, if the person:

(a) completes a boating safety course approved by the division; and

(b) has in his possession a boating safety certificate issued by the boating safety course provider.

(4) A person required to attend a boating safety course under Subsection (3)(a) need not be accompanied by a parent or legal guardian while completing a boating safety course.

(5) A person may not give permission to another person to operate a vessel in violation of this section.

(6) As used in this section, "direct supervision" means oversight at a distance within which visual contact is maintained.

(7) (a) The division may collect a fee not to exceed \$12 from each person who takes the division's boating safety course to help defray the cost of the boating safety course.

(b) Money collected from the fee collected under Subsection (7)(a) shall be deposited in the Boating Account.

R651-227-1. Boating Safety Course Fees.

(1) The fee for the personal watercraft education course is \$12.

(2) The fee to replace a lost or stolen personal watercraft education certificate is \$5.

73-18-15.3. Personal watercraft - Prohibition on operation between sunset and sunrise.

A person may not operate a personal watercraft on the waters of this state between sunset and sunrise.

73-18-15.5. Authorizing or permitting driving a vessel in violation of law.

(1) A person may not authorize or knowingly permit a vessel owned by him or that is under his control to be driven by a person in violation of this chapter or Title 41, Chapter 6, Article 5, Driving While Intoxicated and Reckless Driving.

(2) A person who violates Subsection (1) is guilty of a class C misdemeanor.

73-18-16. Regattas, races, exhibitions - Rules.

The division may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, or exhibitions on any waters of this state. The board may adopt rules concerning the safety of vessels and persons, either as observers or participants.

R651-226. Regattas and Races.

R651-226-1. Authorization to hold a marine event shall be obtained from the division as well as from any other person or agency who owns or administers the land adjacent to the marine event.

73-18-17. Scope of application of chapter - Identical local ordinances authorized - Application for special local rules.

(1) This chapter, and other applicable laws of this state govern the operation, equipment, and numbering of vessels whenever any vessel is operated on the waters of this state, or when any activity regulated by this chapter takes place on the waters of this state. Nothing in this chapter prevents the adoption of any ordinance or local law relating to operation and equipment of vessels, the provisions of which are identical to the provisions of this chapter, amendments to this chapter, and rules promulgated under this chapter. Ordinances or local laws shall be operative only so long as and to the extent that they continue to be identical to provisions of this chapter, amendments to this chapter, and rules promulgated under this chapter.

(2) Any political subdivision of this state may, at any time, but only after public notice, formally apply to the board for special rules concerning the operation of vessels on any waters within its territorial limits. The political subdivision shall set forth in the application the reasons which make special rules necessary or appropriate.

73-18-18. Liability of owner for injury or damage occasioned by negligent operation of vessel by minor.

The owner of a vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel, by a minor under the age of 18 years operating such vessel with the express or implied consent of the owner, whether under the laws of this state or by neglecting to observe such ordinary care and such operation as the rules of common law require.

73-18-19. Publication and filing of rules and regulations.

The rules promulgated under this chapter shall be published as required by Chapter 46a, Title 63, the Utah Administrative Rulemaking Act.

73-18-20. Enforcement of act - Authority to stop and board vessels - Disregarding law enforcement signal to stop as a misdemeanor - Procedure for arrest.

(1) Any law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, may enforce the provisions of this chapter and the rules promulgated under this chapter.

(2) Any law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, has the authority to stop and board any vessel subject to this chapter, whether the vessel is on water or land. If that officer determines the vessel is overloaded, unseaworthy, or the safety equipment required by this chapter or rules of the board is not on the vessel, that officer may prohibit the launching of the vessel or stop the vessel from operating.

(3) An operator who, having received a visual or audible signal from a law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to bring his vessel to a stop, operates his vessel in willful or wanton disregard of the signal so as to interfere with or endanger the operation of any vessel or endanger any person, or who attempts to flee or elude the officer whether by vessel or otherwise is guilty of a class A misdemeanor.

(4) Whenever any person is arrested for any violation of the provisions of this chapter or of the rules promulgated under this chapter, the procedure for arrest is the same as outlined in Sections 41-6-166 through 41-6-169.

73-18-20.1. Seizure of a vessel.

(1) A peace officer, without a warrant, may seize and take possession of a vessel:

(a) that is placed or being operated on the waters of this state with improper registration;

(b) that the peace officer has reason to believe has been stolen;

(c) on which any hull identification number or serial number for an engine or outboard motor has been defaced, altered, or obliterated;

(d) that has been abandoned on public land, highways, or waters of this state; or

(e) if the registration or title fees for the vessel or outboard motor have not been paid.

(2) If necessary for the transportation of a seized vessel, the vessel's trailer may be seized to transport and store the vessel.

(3) Any peace officer seizing or taking possession of a vessel under this section shall immediately notify the Motor Vehicle Division of the State Tax Commission of the action and shall impound the vessel at a docking area, public or private garage, state impound lot, or other storage facility approved by the Motor Vehicle Division.

73-18-20.2. Release and sale of a seized vessel.

(1) A vessel seized under Section 73-18-20.1 shall remain impounded until:

(a) the vessel's registration has been properly completed and the appropriate fees have been paid; or

(b) the ownership of the vessel is established to the satisfaction of the division or its authorized agent.

(2) If the hull identification number or serial number for the engine or outboard motor has been defaced, altered, or obliterated, the vessel may not be released until:

(a) the original manufacturer's hull identification number or engine or outboard motor serial number has been replaced; or

(b) a new number assigned by the division or its authorized agent has been provided and has been affixed to the vessel, engine, or outboard motor.

(3)(a) Any seized vessel not claimed by the registered owner or the owner's agent within 30 days shall be sold and handled in accordance with the procedures specified in Sections 41-1-117 through 41-1-119 for the sale of impounded motor vehicles.

(b) The proceeds, if any, shall be disposed of in the same manner as under Section 41-1-117.

(c) Transportation, impound fees, or storage fees are a lien on the vessel.

73-18-20.3. Falsified hull identification, engine, or motor number.

(1) A person is guilty of a third degree felony if he:

(a) with fraudulent intent defaces, destroys, or alters a vessel hull identification number or serial number for an engine or outboard motor;

(b) places or stamps any vessel hull identification number upon a vessel or serial number upon an engine or outboard motor, except one assigned by the division or its authorized agent;

(c) knowingly buys, receives, disposes of, sells, offers for sale, or has in his possession any vessel, or engine or outboard motor removed from a vessel, from which the vessel hull identification number or engine or outboard motor serial number, has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of the vessel, engine, or outboard motor;

(d) with intent to procure or pass title to a vessel or outboard motor, receives or transfers possession of a vessel or outboard motor which he knows or has reason to believe has been stolen or unlawfully taken; or

(e) has in his possession a vessel or outboard motor which he knows or has reason to believe has been stolen or unlawfully taken, unless the person is a peace officer engaged at the time in the performance of his duty.

(2)(a) This section does not prohibit the restoration by an owner of an original vessel hull identification number or manufacturer's serial number for an engine or outboard motor if the restoration is made by application to the division or its authorized agent.

(b) This section does not prohibit any manufacturer from placing, in the ordinary course of business, numbers or marks upon vessels, motors, outboard motors, or parts.

73-18-20.4. Duty to report falsified vessel or motor number.

Any person owning or operating a marina, marine dealership, service station, public garage, paint shop, or a vessel repair shop shall immediately notify the local police authorities of any vessel or outboard motor that has any numbers that have apparently been altered, obliterated, or removed.

73-18-20.5. Reporting of theft and recovery of vessels.

(1)(a) Any peace officer upon receiving reliable information that any vessel or outboard motor has been stolen shall immediately report the theft to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(b) Any peace officer upon receiving information that any vessel or outboard motor which was previously reported as stolen has been recovered shall immediately report the recovery to his law enforcement agency and to the Criminal Investigations and Technical Services Division.

(2) The reporting and recovery procedures for vessels and outboard motors shall be the same as those specified in Section 41-1a-1401 for motor vehicles.

73-18-20.6. Report by owners or lien holders of thefts and recoveries.

(1) The owner, or person having a lien or encumbrance upon a registered vessel or outboard motor which has been stolen or embezzled, may notify the law enforcement agency having jurisdiction where the theft or embezzlement occurred. If a vessel or outboard motor was embezzled, a report may be made only after having procured the issuance of a warrant for the arrest of the person charged with the embezzlement.

(2) Any person who has given any notice under Subsection (1) shall notify the law enforcement agency where the theft or embezzlement was reported of a recovery of the vessel or outboard motor.

73-18-20.7. Unlawful control over vessels - Penalties - Effect of prior consent - Accessory or accomplice.

(1) Any person who exercises unauthorized control over a vessel, not his own, without the consent of the owner or lawful custodian and with intent to temporarily deprive the owner or lawful custodian of possession of the vessel, is guilty of a class A misdemeanor.

(2) An offense under this section is a third degree felony if the actor does not return the vessel to the owner or lawful custodian within 24 hours after the exercise of unauthorized control.

(3) The consent of the owner or legal custodian of a vessel to its control by the actor is not in any case presumed or implied because of the owners or legal custodians consent on a previous occasion to the control of the vessel by the same or a different person.

(4) Any person who assists in, or is a party or accessory to or an accomplice in, an unauthorized taking or operating of a vessel is guilty of a class A misdemeanor.

73-18-21. Violation - Class B misdemeanor.

Unless otherwise specified, any person who violates any provision of this chapter or rule promulgated under this chapter is guilty of a class B misdemeanor.

73-18-22. Boating Account created - Contents - Use of money.

(1) There is created within the General Fund a restricted account known as the Boating Account.

(2) Except as provided under Section 73-18-24, all registration fees and related moneys collected by the division or any authorized agent, less the costs of collecting motorboat and sailboat registration fees by an authorized agent, shall be deposited into the Boating Account.

(3) The amount retained by an authorized agent may not exceed 20% of the fees charged in Section 73-18-7.

(4) Money in the Boating Account may be used for:

(a) the construction, improvement, operation, and maintenance of publicly owned boating facilities;

(b) boater education; and

(c) the payment of the costs and expenses of the division in administering and enforcing this chapter.

73-18-23. Separability clause.

If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the rest of this act shall not be affected thereby.

73-18-24. Search and rescue fee - Amount - Deposition.

(1) In addition to the fee imposed under Section 73-18-7, there is imposed a search and rescue fee of 50 cents on each motorboat or sailboat required to pay the fee imposed under Subsection 73-18-7(2) to be registered or renewed under Section 73-18-7.

(2) The fees imposed under this section shall be collected in the same manner and by the same agency designated to collect the fees imposed under this chapter.

(3) The fees collected under this section shall be deposited in the General Fund as dedicated credits for the Search and Rescue Financial Assistance Program created under Section 53-2-107.

PART 11

IMPOUNDED VEHICLES, VESSELS, OR OUTBOARD MOTORS

41-1a-1101. Seizure - Circumstances where permitted - Impound lot standards.

(1) The division or any peace officer, without a warrant, may seize and take possession of any vehicle, vessel, or outboard motor:

(a) that the division or the peace officer has reason to believe has been stolen;

(b) on which any identification number has been defaced, altered, or obliterated;

(c) that has been abandoned on the public highways;

(d) for which the applicant has written a check for registration or title fees that has not been honored by the applicant's bank and that is not paid within 30 days;

(e) that is placed on the water with improper registration; or

(f) that is being operated on a highway:

(i) with registration that has been expired for more than three months;

(ii) having never been properly registered by the current owner; or

(iii) with registration that is suspended or revoked.

(2) If necessary for the transportation of a seized vessel, the vessel's trailer may be seized to transport and store the vessel.

(3) Any peace officer seizing or taking possession of a vehicle, vessel, or outboard motor under this section shall comply with the provisions of Section 41-6-102.5.

(4) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules setting standards for public garages, impound lots, and impound yards that may be used by peace officers and the division.

(b) The standards shall be equitable, reasonable, and unrestrictive as to the number of public garages, impound lots, or impound yards per geographical area.

(5) (a) Except as provided under Subsection (5)(b), a person may not operate or allow to be operated a vehicle stored in a public garage, impound lot, or impound yard regulated under this part without prior written permission of the owner of the vehicle.

(b) Incidental and necessary operation of a vehicle to move the vehicle from one parking space to another within the facility and that is necessary for the normal management of the facility is not prohibited under this Subsection (5)(a).

(6) A person who violates the provisions of Subsection (5) is guilty of a class C misdemeanor.

(7) The division or the peace officer who seizes a vehicle shall record the mileage shown on the vehicle's odometer at the time of seizure, if:

(a) the vehicle is equipped with an odometer; and

(b) the odometer reading is accessible to the division or the peace officer.

41-1a-1102. Storage - Establishing ownership.

(1) The division may store a seized vehicle, vessel, or outboard motor in a public or private garage, state impound lot, or other approved storage facility until the vehicle's, vessel's, or outboard motor's registration has been properly completed and the appropriate fees have been paid or until the ownership of the vehicle, vessel, or outboard motor is established to the satisfaction of the division.

(2) If the identification number has been defaced, altered, or obliterated, the vehicle, vessel, or outboard motor may not be released until the identification number has been replaced or until a new number assigned by the division has been provided and has been affixed to the vehicle, vessel, or outboard motor.

41-1a-1103. Sale.

(1) If the owner or lienholder of a seized vehicle, vessel, or outboard motor does not recover the vehicle, vessel, or outboard motor within 30 days from the date of seizure, or if the division is unable to determine the owner or lienholder through reasonable efforts, the division shall sell the vehicle, vessel, or outboard motor.

(2) The sale shall be conducted by an authorized representative of the division and shall be held in the form of a public auction at the place of storage.

(3) At least five days prior to the date set for sale, the division shall publish a notice of sale in a newspaper of general statewide circulation setting forth the date, time, and place of sale and a description of the vehicle, vessel, or outboard motor to be sold.

(4) At the time of sale the division shall tender to the highest bidder a certificate of sale conveying all rights, title, and interest in the vehicle, vessel, or outboard motor.

(5) The proceeds from the sale of a vehicle, vessel, or outboard motor under this section shall be distributed as provided under Section 41-1a-1104.

(6) Where the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section

41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 30 days from the date of release, the division shall renotify the owner or lienholder and sell the vehicle, vessel, or outboard motor 30 days from the date of the notice.

41-1a-1104. Disposition of proceeds from sale.

(1) If the ownership of a vehicle, vessel, or outboard motor seized and sold by the division under Section 41-1a-1301 or this part cannot be determined, then the excess of the proceeds of any sale over the fees for registration or transfer and penalties and costs shall be deposited with the state treasurer in a suspense account.

(2) (a) If the owner or the owner's heirs or assigns file a claim for the excess of the proceeds within one year of date of sale of the vehicle, vessel, or outboard motor, the excess of the proceeds shall be refunded to the claimant.

(b) If a claim is not filed in accordance with Subsection (a), then the moneys shall be deposited in the General Fund.

41-1a-1105. Records to be kept by public garage, impound lot, or impound yard.

(1) (a) Each person engaged in the business of operating a public garage, impound lot, or impound yard shall keep a record of every vehicle, vessel, or outboard motor stored in it for compensation for a period longer than 12 hours.

(b) The record shall include:

(i) the name and address of the person storing the vehicle, vessel, or outboard motor;

(ii) a brief description of the vehicle, vessel, or outboard motor, including the name or make, identification number, and license number shown by the license plates; and

(iii) the mileage shown on the vehicle's odometer both upon arrival at and upon its release from the public garage, impound lot, or impound yard, if the vehicle is equipped with an odometer.

(2) Every record kept under Subsection (1) shall be open to inspection by any peace officer.

41-1a-1106. Storage of vehicles, vessels, and outboard motors - Reports required.

If any vehicle, vessel, or outboard motor has been stored in a public garage, state impound lot, or other storage facility for ten days and the owner is unknown to the proprietor, on the 11th day of storage the proprietor shall report the presence of the vehicle, vessel, or outboard motor to the law enforcement agency in the city or county where the garage, lot, or facility is located.

UTAH
BOATING-LITTER
AND
POLLUTION CONTROL LAWS
(Updated as of April 2001)
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UTAH
BOATING LITTER
AND
POLLUTION CONTROL ACT

TITLE 73, CHAPTER 18a, UTAH CODE ANNOTATED 1953
As Amended

Updated as of April 2001

73-18a-1. Definitions.

As used in this chapter:

- (1) "Board" means the Board of Parks and Recreation.
- (2) "Division" means the Division of Parks and Recreation.
- (3) "Human body waste" means excrement, feces, or other waste material discharged from the human body.
- (4) "Litter" means any bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, rubbish, or similar refuse discarded as no longer useful.
- (5) "Marine toilet" means any toilet or other receptacle permanently installed on or within any vessel for the purpose of receiving human body waste. This term does not include portable toilets which may be removed from a vessel in order to empty its contents.
- (6) "Operate" means to navigate, control, or otherwise use a vessel.
- (7) "Operator" means the person who is in control of a vessel while it is in use.
- (8) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a vessel. The term does not include a lessee under a lease not intended as security.
- (9) "Vessel" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.
- (10) "Waters of this state" means all waters within the territorial limits of this state except those used exclusively for private purposes.

73-18a-2. Littering and pollution of water or lands prohibited - Penalty.

(1) A person may not place, throw, deposit, discard, drop, or discharge and the operator of a vessel may not permit to be placed, thrown, deposited, discarded, dropped, or discharged into or upon the waters of this state, or lands adjacent to these waters, any litter, human body waste, or other liquid or solid materials which may render the water or lands unsightly, noxious, or otherwise unwholesome or detrimental to the public health or welfare or the enjoyment of the water or lands for all legitimate uses, including recreational purposes.

(2) A person violating any provision of Subsection (1) is guilty of a class B misdemeanor and shall be fined not less than \$100 for each violation.

73-18a-3. Marine toilets - Use without pollution control device prohibited - Containers of body waste - Discharge into waters prohibited.

(1) No marine toilet on any vessel used or operated upon the waters of this state may be operated so as to discharge any inadequately treated human body waste into or upon waters of this state directly or indirectly.

(2) No person owning or operating a vessel with a marine toilet may use, or permit the use of, a toilet on the waters of this state, unless the toilet is equipped with facilities that will adequately treat, hold, incinerate, or otherwise handle human body waste in a manner that is capable of preventing water pollution.

(3) No container of human body waste may be placed, left, discharged or caused to be placed, left, or discharged into or upon any waters of this state or lands adjacent to these waters by any person at any time.

73-18a-4. Marine toilets - Pollution control devices required - Rules established by board.

(1) Every marine toilet on a vessel used or operated upon the waters of this state shall be equipped with an approved pollution control device in operative condition.

(2) The board shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, as provided in this chapter, establishing criteria or standards for definition and approval of acceptable pollution control devices for vessels.

73-18a-5. Chemical treatment of marine toilet contents - Rules established by board and Department of Environmental Quality.

The board shall establish by rule, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, with approval by the Department of Environmental Quality, as provided in this chapter, standards relating to chemical treatment of marine toilet contents.

73-18a-6. Repealed.

73-18a-7. Repealed.

73-18a-8. Public marinas - Duty to maintain waste disposal facilities.

The owner or whoever is lawfully vested with the possession, management, or control of a public marina or other public waterside facility used by a vessel for launching, docking, mooring, and related purposes shall be required to have, and properly maintain, waste receptacles or similar devices of proper design for the depositing of waste, litter, and human body waste, as required at locations where they can be conveniently used by a vessel's occupants. Waterside toilet facilities may be required if their absence contributes to or creates unsightliness or a hazard to the public health and welfare.

73-18a-9. Public educational program.

The division may undertake and enlist the support and cooperation of all agencies, political subdivisions, and organizations to conduct a public educational program designed to inform the public of the undesirability of depositing trash, litter, and other objectionable materials in the waters of this state and the penalties provided by this chapter for such action. The division may use funds provided by the Legislature for this purpose. The division may utilize all means of communication in the conduct of this program.

73-18a-10. Enforcement - Inspection of vessels, marinas, and other boating facilities.

Enforcement of this chapter or the rules promulgated under it shall be by law enforcement officers. Any vessel in this state is subject to inspection by the officers for the purpose of determining whether the vessel is equipped in compliance with this chapter. If the vessel is not so equipped, the division may suspend its registration until the proper installation is completed or the marine toilet is sealed in a manner which prohibits its use. The division may inspect marinas or other waterside public facilities used by vessels for launching, docking, or mooring purposes to determine whether they are adequately equipped for proper handling, storing, or disposal of waste, litter, or human body waste.

73-18a-11. Regulation by political subdivisions prohibited - Exception.

Through the passage of this chapter, the state fully reserves to itself the exclusive right to establish requirements concerning the disposal of human body waste and litter from a vessel. To ensure statewide uniformity of the disposal of litter or human body waste from a vessel, regulation, other than the adoption for local enforcement of state rules, by any political subdivision of the state is prohibited.

73-18a-12. Rules promulgated by board - Subject to approval by Department of Environmental Quality.

The board may promulgate rules under Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which are necessary for the carrying out of duties, obligations, and powers conferred on the division by this chapter. These rules shall be subject to review and approval by the Department of Environmental Quality. This approval shall be recorded as part of the rules.

73-18a-13. Publication of rules.

The rules promulgated under this chapter shall be published as required by the Utah Administrative Rulemaking Act.

73-18a-14. Violation - Class B misdemeanor.

Unless otherwise specified, any person who violates any provision of this chapter or rule promulgated under this chapter is guilty of a class B misdemeanor.

73-18a-15. Arrest for violation - Procedure.

Whenever any person is arrested for any violation of the provisions of this chapter or rule promulgated under this chapter, the procedure for arrest is the same as specified in Sections 41-6-166 through 41-6-169.

73-18a-16. Repealed.

73-18a-17. Repealed.

73-18a-18. Act supplemental to other laws.

This act shall not be construed as repealing any laws of the state relating to the pollution or littering of waters or lands thereof or any conservation laws, but shall be held and construed as auxiliary and supplemental thereto.

73-18a-19. Repealed.

UTAH
WATER SAFETY LAWS AND RULES
(Updated as of April 2001)
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UTAH
WATER SAFETY ACT
AND
BOARD OF PARKS & RECREATION RULES

TITLE 73, CHAPTER 18b, UTAH CODE ANNOTATED 1953
As Amended

Updated as of April 2001

Note: Rules of the Board are preceded by R651

73-18b-1. Water safety rules and regulations - Adoption.

(1) The Board of Parks and Recreation may make rules necessary to promote safety in swimming, scuba diving, and related activities on any waters where public boating is permitted.

(2) The commission (board) may consider recommendations of and cooperate with other state agencies and the owners or operators of those waters.

R651-801. Swimming Prohibited.

R651-801-1. No person shall engage in swimming activity in any of the following:

- (1) a designated "No Swimming" area;
- (2) a vessel launching, docking, mooring, or harbor area; or
- (3) near or in spillways or outlets.

R651-802. Scuba Diving.

R651-802-1. Diver's Flag and Diver Certification.

(1) A scuba diver shall display a diver's flag prior to diving activity and shall dive and surface in close proximity to the flag.

(2) No person shall place a diver's flag on the waters of this state unless diving activity is in progress in that area.

(3) If a diver's flag is placed after sunset or before sunrise, it shall be lighted.

(4) No person shall place a diver's flag in any area where boating activity might be unduly restricted.

(5) No scuba diver shall dive in a congested boating or fishing area such as narrow channels, launching or docking areas, or near reservoir outlets.

(6) No person shall scuba dive in any waters of this state unless he holds a valid certificate from an accredited scuba diving school or is in the company of a certified scuba diving instructor.

73-18b-2. Filing and publishing regulations.

A copy of the regulations adopted pursuant to this act and any amendments thereto shall be filed in the office of the commission and with the Division of Archives and shall be published in a convenient form.

73-18b-3. Violation of regulations - Misdemeanor.

Any person who violates any rules made by the Board of Parks and Recreation under authority of this chapter is guilty of a class B misdemeanor.

73-18b-4. Enforcement of regulations.

(1) The Board of Parks and Recreation shall designate officers to enforce board rules made under the authority of this chapter.

(2) Those officers have the same authority in making arrests and responsibility in arrest procedures as they have in their other enforcement activities.

UTAH
DUI LAWS
(Up dated as of July 2002)
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ARTICLE 5
DRIVING WHILE INTOXICATED
AND RECKLESS DRIVING

41-6-43. Local DUI and related ordinances and reckless driving ordinances - Consistent with code.

(1) An ordinance adopted by a local authority that governs a person's operating or being in actual physical control of a motor vehicle while having alcohol in the blood or while under the influence of alcohol or any drug or the combined influence of alcohol and any drug, or that governs, in relation to any of those matters, the use of a chemical test or chemical tests, or evidentiary presumptions, or penalties, or that governs any combination of those matters, shall be consistent with the provisions in this code which govern those matters.

(2) An ordinance adopted by a local authority that governs reckless driving, or operating a vehicle in willful or wanton disregard for the safety of persons or property shall be consistent with the provisions of this code which govern those matters.

41-6-43.10. Repealed.

41-6-43.5. Definitions.

As used in this article, "vehicle" or "motor vehicle," in addition to the definitions provided under Section 41-6-1, includes an off-highway vehicle as defined under Section 41-22-2 and a motorboat as defined in Section 73-18-2.

41-6-43.7. Courts to collect and maintain data.

The state courts shall collect and maintain data necessary to allow sentencing and enhancement decisions to be made in accordance with this article.

41-6-44. Driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration -- Measurement of blood or breath alcohol -- Criminal punishment -- Arrest without warrant -- Penalties -- Suspension or revocation of license.

(1) As used in this section:

(a) "conviction" means any conviction for a violation of:

(i) this section;

(ii) alcohol, any drug, or a combination of both-related reckless driving

under Subsections (9) and (10);

(iii) Section 41-6-44.6, driving with any measurable controlled substance that is taken illegally in the body;

(iv) local ordinances similar to this section or alcohol, any drug, or a combination of both-related reckless driving adopted in compliance with Section 41-6-43;

(v) automobile homicide under Section 76-5-207; or

(vi) a violation described in Subsections (1)(a)(i) through (v), which judgment of conviction is reduced under Section 76-3-402; or

(vii) statutes or ordinances in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of this section or alcohol, any drug, or a combination of both-related reckless driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815;

(b) "educational series" means an educational series obtained at a substance abuse program that is approved by the Board of Substance Abuse in accordance with Section 62A-8-107;

(c) "screening and assessment" means a substance abuse addiction and dependency screening and assessment obtained at a substance abuse program that is approved by the Board of Substance Abuse in accordance with Section 62A-8-107;

(d) "serious bodily injury" means bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death;

(e) "substance abuse treatment" means treatment obtained at a substance abuse program that is approved by the Board of Substance Abuse in accordance with Section 62A-8-107;

(f) "substance abuse treatment program" means a state licensed substance abuse program;

(g) a violation of this section includes a violation under a local ordinance similar to this section adopted in compliance with Section 41-6-43; and

(h) the standard of negligence is that of simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like

or similar circumstances.

(2) (a) A person may not operate or be in actual physical control of a vehicle within this state if the person:

(i) has sufficient alcohol in his body that a subsequent chemical shows that the person has a blood or breath alcohol concentration of .08 grams or greater at the time of the test;

(ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle; or

(iii) has a blood or breath alcohol concentration of .08 grams or greater at the time of operation or actual physical control.

(b) The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense against any charge of violating this section.

(c) Alcohol concentration in the blood shall be based upon grams of alcohol per 100 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol per 210 liters of breath.

(3) (a) A person convicted the first or second time of a violation of Subsection (2) is guilty of a:

(i) class B misdemeanor; or

(ii) class A misdemeanor if the person:

(A) has also inflicted bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(B) had a passenger under 16 years of age in the vehicle at the time of the offense; or

(C) was 21 years of age or older and had a passenger under 18 years of age in the vehicle at the time of the offense.

(b) A person convicted of a violation of Subsection (2) is guilty of a third degree felony if the person has also inflicted serious bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner.

(4) (a) As part of any sentence imposed the court shall, upon a first conviction, impose a mandatory jail sentence of not less than 48 consecutive hours.

(b) The court may, as an alternative to all or part of a jail sentence, require the person to:

(i) work in a compensatory-service work program for not less than 24 hours; or

(ii) participate in home confinement through the use of electronic monitoring in accordance with Subsection (13).

(c) In addition to the jail sentence, compensatory-service work program, or home confinement, the court shall:

(i) order the person to participate in a screening and assessment;

(ii) order the person to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (4)(d); and

(iii) impose a fine of not less than \$700.

(d) The court may order the person to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate.

(e)(i) Except as provided in Subsection (4)(e)(ii), the court may order probation for the person in accordance with Subsection (14).

(ii) If there is admissible evidence that the person had a blood alcohol level of .16 or higher, the court shall order probation for the person in accordance with Subsection (14).

(5) (a) If a person is convicted under Subsection (2) within ten years of a prior conviction under this section, the court shall as part of any sentence impose a mandatory jail sentence of not less than 240 consecutive hours.

(b) The court may, as an alternative to all or part of a jail sentence, require the person to:

(i) work in a compensatory-service work program for not less than 240 hours; or

(ii) participate in home confinement through the use of electronic monitoring in accordance with Subsection (13).

(c) In addition to the jail sentence, compensatory-service work program, or home confinement, the court shall:

(i) order the person to participate in a screening and assessment;

(ii) order the person to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (5)(d); and

(iii) impose a fine of not less than \$800.

(d) The court may order the person to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate.

(e) The court shall order probation for the person in accordance with Subsection (14).

(6) (a) A conviction for a violation of Subsection (2) is a third degree felony if it is:

(i) a third or subsequent conviction under this section within ten years of two or more prior convictions; or

(ii) at any time after a conviction of:

(b) automobile homicide under Section 76-5-207 that is committed after July 1, 2001; or

(c) a felony violation under this section that is committed after July 1, 2001.

(d) Any conviction described in this Subsection (6) which judgment of conviction is reduced under Section 76-3-402 is a conviction for purposes of this section.

(e) Under Subsection (3)(b) or (6)(a), if the court suspends the execution of a prison sentence and places the defendant on probation the court shall impose:

(i) a fine of not less than \$1,500; and

(ii) a mandatory jail sentence of not less than 1,500 hours.

(f) For Subsection (6)(a) or (c), the court shall impose an order requiring the

person to obtain a screening and assessment and substance abuse treatment at a substance abuse treatment program providing intensive care or inpatient treatment and long-term closely supervised follow-through after treatment for not less than 240 hours.

(g) In addition to the penalties required under Subsection (6)(c), the court may require the person to participate in home confinement through the use of electronic monitoring in accordance with Subsection (13).

(7) The mandatory portion of any sentence required under this section may not be suspended and the convicted person is not eligible for parole or probation until any sentence imposed under this section has been served. Probation or parole resulting from a conviction for a violation under this section may not be terminated.

(8) (a) (i) The provisions in Subsections (4), (5), and (6) that require a sentencing court to order a convicted person to: participate in a screening and assessment; and an educational series; obtain, in the discretion of the court, substance abuse treatment; obtain, mandatorily, substance abuse treatment; or do a combination of those things, apply to a conviction for a violation of Section 41-6-44.6 or 41-6-45 under Subsection (9).

(ii) The court shall render the same order regarding screening and assessment, an educational series, or substance abuse treatment in connection with a first, second, or subsequent conviction under Section 41-6-44.6 or 41-6-45 under Subsection (9), as the court would render in connection with applying respectively, the first, second, or subsequent conviction requirements of Subsections (4), (5), and (6).

(b) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered:

(A) screening and assessment;

(B) educational series;

(C) substance abuse treatment; and

(D) hours of work in compensatory-service work program; or

(ii) pay all fines and fees, including fees for restitution and treatment costs. Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(9) (a) (i) When the prosecution agrees to a plea of guilty or no contest to a charge of a violation of Section 41-6-45, of an ordinance enacted under Section 41-6-43, or of Section

41-6-44.6 in satisfaction of, or as a substitute for, an original charge of a violation of this section, the prosecution shall state for the record a factual basis for the plea, including whether or not there had been consumption of alcohol, drugs, or a combination of both, by the defendant in connection with the violation.

(ii) The statement is an offer of proof of the facts that shows whether there was consumption of alcohol, drugs, or a combination of both, by the defendant, in connection with the violation.

(b) The court shall advise the defendant before accepting the plea offered under this Subsection (9)(b) of the consequences of a violation of Section 41-6-44.6 or of Section 41-6-45.

(c) The court shall notify the Driver License Division of each conviction of Section 41-6-44.6 or 41-6-45 entered under this Subsection (9).

(10) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in his presence, and if the officer has probable cause to believe that the violation was committed by the person.

(11) (a) The Driver License Division shall:

(i) suspend for 90 days the operator's license of a person convicted for the first time under Subsection (2);

(ii) revoke for one year the license of a person convicted of any subsequent offense under Subsection (2) or if the person has a prior conviction as defined under Subsection (1) if the violation is committed within a period of ten years from the date of the prior violation; and

(iii) suspend or revoke the license of a person as ordered by the court under Subsection (12).

(b) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(12) (a) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Subsection (2) to be suspended or revoked for an additional period of 90 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(b) If the court suspends or revokes the person's license under this Subsection (12)(b), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(13) (a) If the court orders a person to participate in home confinement through the use of electronic monitoring, the electronic monitoring shall alert the appropriate corrections, probation monitoring agency, law enforcement units, or contract provider of the defendant's whereabouts.

(b) The electronic monitoring device shall be used under conditions which require:

(i) the person to wear an electronic monitoring device at all times;

(ii) that a device be placed in the home or other specified location of the person, so that the person's compliance with the court's order may be monitored; and

(iii) the person to pay the costs of the electronic monitoring.

(c) The court shall order the appropriate entity described in Subsection (13)(e) to place an electronic monitoring device on the person and install electronic monitoring equipment in the residence of the person or other specified location.

(d) The court may:

(i) require the person's electronic home monitoring device to include a substance abuse testing instrument;

(ii) restrict the amount of alcohol the person may consume during the time the person is subject to home confinement;

(iii) set specific time and location conditions that allow the person to attend school educational classes, or employment and to travel directly between those activities and the person's home; and

(iv) waive all or part of the costs associated with home confinement if the person is determined to be indigent by the court.

(e) The electronic monitoring described in this section may either be administered directly by the appropriate corrections agency, probation monitoring agency, or by contract with a private provider.

(f) The electronic monitoring provider shall cover the costs of waivers by the

court under Subsection (13)(c)(iv).

(14) (a) If supervised probation is ordered under Section 41-6-44.6 or Subsection (4)(e) or (5)(e):

- (i) the court shall specify the period of the probation;
- (ii) the person shall pay all of the costs of the probation; and
- (iii) the court may order any other conditions of the probation.

(b) The court shall provide the probation described in this section by contract with a probation monitoring agency or a private probation provider.

(c) The probation provider described in Subsection (14)(b) shall monitor the person's compliance with all conditions of the person's sentence, conditions of probation, and court orders received under this article and shall notify the court of any failure to comply with or complete that sentence or those conditions or orders.

(d) (i) The court may waive all or part of the costs associated with probation if the person is determined to be indigent by the court.

(ii) The probation provider described in Subsection (14)(b) shall cover the costs of waivers by the court under Subsection (14)(d)(i).

(15) If a person is convicted of a violation of Subsection (2) and there is admissible evidence that the person had a blood alcohol level of .16 or higher, then if the court does not order:

(a) treatment as described under Subsection (4)(d), (5)(d), or (6)(d), then the court shall enter the reasons on the record; and

(b) the following penalties, the court shall enter the reasons on the record:

(i) the installation of an ignition interlock system as a condition of probation for the person in accordance with Section 41-6-44.7; or

(ii) the imposition of home confinement through the use of electronic monitoring in accordance with Subsection (13).

41-6-44.1. Procedures - Adjudicative proceedings.

The Department of Public Safety shall comply with the procedures and requirements of Title 63, Chapter 46b, in its adjudicative proceedings.

41-6-44.2. Repealed.

41-6-44.3. Standards for chemical breath analysis - Evidence.

(1) The commissioner of the Department of Public Safety shall establish standards for the administration and interpretation of chemical analysis of a person's breath, including standards of training.

(2) In any action or proceeding in which it is material to prove that a person was operating or in actual physical control of a vehicle while under the influence of alcohol or any drug or operating with a blood or breath alcohol content statutorily prohibited, documents offered as memoranda or records of acts, conditions, or events to prove that the analysis was made and the instrument used was accurate, according to standards established in Subsection (1), are admissible if:

(a) the judge finds that they were made in the regular course of the investigation at or about the time of the act, condition, or event; and

(b) the source of information from which made and the method and circumstances of their preparation indicate their trustworthiness.

(3) If the judge finds that the standards established under Subsection (1) and the conditions of Subsection (2) have been met, there is a presumption that the test results are valid and further foundation for introduction of the evidence is unnecessary.

41-6-44.4. Renumbered.

41-6-44.5. Admissibility of chemical test results in actions for driving under the influence -- Weight of evidence.

(1) (a) In any civil or criminal action or proceeding in which it is material to prove that a person was operating or in actual physical control of a vehicle while under the influence of alcohol or drugs or with a blood or breath alcohol content statutorily prohibited, the results of a chemical test or tests as authorized in Section 41-6-44.10 are admissible as evidence.

(b) In a criminal proceeding, noncompliance with Section 41-6-44.10 does not render the results of a chemical test inadmissible. Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by Rules of Evidence or the constitution.

(2) This section does not prevent a court from receiving otherwise admissible evidence as to a defendant's blood or breath alcohol level or drug level at the time relevant to the alleged offense.

41-6-44.6. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" means any substance scheduled under Section 58-37-4.

(b) "Practitioner" has the same meaning as provided in Section 58-37-2.

(c) "Prescribe" has the same meaning as provided in Section 58-37-2.

(d) "Prescription" has the same meaning as provided in Section 58-37-2.

(2) In cases not amounting to a violation of Section 41-6-44, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was involuntarily ingested by the accused or prescribed by a practitioner for use by the accused.

(4) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall:

(a) suspend, for 90 days, the driver license of a person convicted under Subsection (2);

(b) revoke, for one year, the driver license of a person convicted of a second or subsequent offense under Subsection (2) or if the person has a prior conviction as defined under Subsection 41-6-44(1), if the violation is committed within a period of ten years after the date of the prior violation; and

(c) subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the

previous suspension was based on the same occurrence upon which the record of conviction is based.

(7) If a person fails to complete all court ordered screening and assessment, educational series, and substance abuse treatment, or fails to pay all fines and fees, including fees for restitution and treatment costs, the court shall notify the Driver License Division of a failure to comply. Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(8) The court shall order supervised probation in accordance with Subsection 41-6-44(14) for a person convicted under Subsection (2).

41-6-44.7. Ignition interlock devices - Use - Probationer to pay cost - Impecuniosity - Fee.

(1) As used in this section:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Ignition interlock system" or "system" means a constant monitoring device or any similar device certified by the commissioner that prevents a motor vehicle from being started without first determining the driver's breath alcohol concentration.

(c) "Probation provider" means the supervisor and monitor of the ignition interlock system required as a condition of probation or as otherwise ordered by the court who contracts with the court in accordance with Subsections 41-6-44(14)(b) and (c).

(2) (a) In addition to any other penalties imposed under Section 41-6-44, and in addition to any requirements imposed as a condition of probation, the court may require that any person who is convicted of violating Section 41-6-44 and who is granted probation may not operate a motor vehicle during the period of probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start if the operator's blood alcohol concentration exceeds a level ordered by the court.

(b) If a person convicted of violating Section 41-6-44 was under the age of 21 when the violation occurred, the court shall order the installation of the ignition interlock system as a condition of probation.

(c) (i) If a person is convicted of a violation of Section 41-6-44 within ten years of a prior conviction of that section, the court shall order the installation of the ignition interlock system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person for three years from the date of conviction.

(ii) The division shall post the ignition interlock restriction on the

electronic record available to law enforcement.

(d) This section does not apply to a person convicted of a violation of Section 41-6-44 whose violation involves drugs other than alcohol.

(3) Except as provided in Subsection (2)(c), if the court imposes the use of an ignition interlock system as a condition of probation, the court shall:

(a) stipulate on the record the requirement for and the period of the use of an ignition interlock system;

(b) order that an ignition interlock system be installed on each motor vehicle owned or operated by the probationer, at the probationer's expense;

(c) order the probationer to submit his driver license to the Driver License Division in accordance with Subsection (5);

(d) immediately notify the Driver License Division and the person's probation provider of the order; and

(e) require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order.

(4) (a) The probationer shall provide timely proof of installation within 30 days of an order imposing the use of a system or show cause why the order was not complied with to the court or to the probationer's probation provider.

(b) The probation provider shall notify the court of failure to comply under Subsection (4)(a).

(c) For failure to comply under Subsection (4)(a) or upon receiving the notification under Subsection (4)(b), the court shall order the Driver License Division to suspend the probationer's driving privileges for the remaining period during which the compliance was imposed.

(d) Cause for failure to comply means any reason the court finds sufficiently justifiable to excuse the probationer's failure to comply with the court's order.

(5) (a) If use of an ignition interlock system is required under this section, the division may not issue, reinstate, or renew the driver license of that person unless that requirement is coded on the person's driver license.

(b) (i) If the division receives a notice that a person with a valid driver license that does not require a driver license withdrawal is required to use an ignition interlock

system, the division shall notify the person that he has ten calendar days to apply to the division for an ignition interlock system requirement coded on the license.

(ii) The division shall suspend the driver license of the person after the ten-day period until the person applies to the division for an ignition interlock system requirement coded on the license.

(6) (a) Any probationer required to install an ignition interlock system shall have the system monitored by the manufacturer or dealer of the system for proper use and accuracy at least semiannually and more frequently as the court may order.

(b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the court or the person's probation provider.

(ii) The report shall be issued within 14 days following each monitoring.

(7) (a) If an ignition interlock system is ordered installed, the probationer shall pay the reasonable costs of leasing or buying and installing and maintaining the system.

(b) A probationer may not be excluded from this section for inability to pay the costs, unless:

(i) the probationer files an affidavit of impecuniosity; and

(ii) the court enters a finding that the probationer is impecunious.

(c) In lieu of waiver of the entire amount of the cost, the court may direct the probationer to make partial or installment payments of costs when appropriate.

(d) The ignition interlock provider shall cover the costs of waivers by the court under this Subsection (7).

(8) (a) If a probationer is required in the course and scope of employment to operate a motor vehicle owned by the probationer's employer, the probationer may operate that motor vehicle in the course and scope of employment without installation of an ignition interlock system only if the employer has been notified that the employee is restricted and the employee has proof of the notification in his possession while operating the employer's motor vehicle.

(b) (i) To the extent that an employer-owned motor vehicle is made available to a probationer subject to this section for personal use, no exemption under this section shall apply.

(ii) A probationer intending to operate an employer-owned motor vehicle for personal use and who is restricted to the operation of a motor vehicle equipped

with an ignition interlock system shall notify the employer and obtain consent in writing from the employer to install a system in the employer-owned motor vehicle.

(c) A motor vehicle owned by a business entity that is all or partly owned or controlled by a probationer subject to this section is not a motor vehicle owned by the employer and does not qualify for an exemption under this Subsection (8).

(9) Upon conviction for violation of this section, the court shall notify the Driver License Division to immediately suspend the probationer's license to operate a motor vehicle for the remainder of the period of probation.

(10) (a) It is a class B misdemeanor for a person to:

(i) circumvent or tamper with the operation of an ignition interlock system;

(ii) knowingly furnish a motor vehicle without an ignition interlock system to someone who is not authorized to drive a motor vehicle unless the motor vehicle is equipped with an ignition interlock system that is in working order;

(iii) rent, lease, or borrow a motor vehicle without an ignition interlock system if a driving restriction is imposed under this section;

(iv) request another person to blow into an ignition interlock system, if the person is required to have a system and the person requests or solicits another to blow into the system to start the motor vehicle in order to circumvent the system;

(v) blow into an ignition interlock system or start a motor vehicle equipped with an ignition interlock system for the purpose of providing an operable motor vehicle to another person required to have a system;

(vi) advertise for sale, offer for sale, sell, or lease an ignition interlock system unless the system has been certified by the commissioner and the manufacturer of the system has affixed a warning label, as approved by the commissioner on the system, stating that the tampering, circumventing, or other misuse of the system is a class B misdemeanor; or

(vii) operate a motor vehicle in violation of any ignition interlock restriction.

(b) This Subsection (10) does not apply if the starting of a motor vehicle, or the request to start a motor vehicle, equipped with an ignition interlock system is done for the

purpose of safety or mechanical repair of the system or the motor vehicle and the person subject to the court order does not drive the motor vehicle.

(11) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commissioner shall make rules setting standards for the certification of ignition interlock systems.

(b) The standards shall require that the system:

(i) not impede the safe operation of the motor vehicle;

(ii) have features that make circumventing difficult and that do not interfere with the normal use of the motor vehicle;

(iii) require a deep lung breath sample as a measure of breath alcohol concentration;

(iv) prevent the motor vehicle from being started if the driver's breath alcohol concentration exceeds an ordered level;

(v) work accurately and reliably in an unsupervised environment;

(vi) resist tampering and give evidence if tampering is attempted;

(vii) operate reliably over the range of motor vehicle environments; and

(viii) be manufactured by a party who will provide liability insurance.

(c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or independent laboratory tests relied upon in certification of ignition interlock systems by other states.

(d) A list of certified systems shall be published by the commissioner and the cost of certification shall be borne by the manufacturers or dealers of ignition interlock systems seeking to sell, offer for sale, or lease the systems.

(e) In accordance with Section 63-38-3.2, the commissioner may establish an annual dollar assessment against the manufacturers of ignition interlock systems distributed in the state for the costs incurred in certifying. The assessment shall be apportioned among the manufacturers on a fair and reasonable basis.

(12) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.

41-6-44.8. Municipal attorneys for specified offenses may prosecute for certain DUI offenses and driving while license is suspended or revoked.

The following class A misdemeanors may be prosecuted by attorneys of cities and towns, as well as by prosecutors authorized elsewhere in this code to prosecute these alleged violations:

(1) alleged class A misdemeanor violations of Section 41-6-44; and

(2) alleged violations of Section 53-3-227, which consist of the person operating a vehicle while the person's driving privilege is suspended or revoked for a violation of Section 41-6-44, a local ordinance which complies with the requirements of Section 41-6-43, Section 41-6-44.10, Section 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of those sections or ordinances.

41-6-44.10. Implied consent to chemical tests for alcohol or drug - Number of tests - Refusal - Warning, report - Hearing, revocation of license - Appeal - Person incapable of refusal - Results of test available - Who may give test - Evidence.

(1) (a) A person operating a motor vehicle in this state is considered to have given his consent to a chemical test or tests of his breath, blood, or urine for the purpose of determining whether he was operating or in actual physical control of a motor vehicle while having a blood or breath alcohol content statutorily prohibited under Section 41-6-44, 53-3-231, or 53-3-232, while under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6-44, or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6-44.6, if the test is or tests are administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while having a blood or breath alcohol content statutorily prohibited under Section 41-6-44, 53-3-231, or 53-3-232, or while under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6-44, or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6-44.6.

(b) (i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) If an officer requests more than one test, refusal by a person to take one or more requested tests, even though he does submit to any other requested test or tests, is a refusal under this section.

(c) (i) A person who has been requested under this section to submit to a chemical test or tests of his breath, blood, or urine, may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2) (a) If the person has been placed under arrest, has then been requested by a peace officer to submit to any one or more of the chemical tests under Subsection (1), and refuses to submit to any chemical test requested, the person shall be warned by the peace officer requesting the test or tests that a refusal to submit to the test or tests can result in revocation of the person's license to operate a motor vehicle.

(b) Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered a peace officer shall serve on the person, on behalf of the Driver License Division, immediate notice of the Driver License Division's intention to revoke the person's privilege or license to operate a motor vehicle. When the officer serves the immediate notice on behalf of the Driver License Division, he shall:

(i) take the Utah license certificate or permit, if any, of the operator;

(ii) issue a temporary license effective for only 29 days; and

(iii) supply to the operator, on a form approved by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.

(c) A citation issued by a peace officer may, if approved as to form by the Driver License Division, serve also as the temporary license.

(d) As a matter of procedure, the peace officer shall submit a signed report, within ten calendar days after the date of the arrest, that he had grounds to believe the arrested person had been operating or was in actual physical control of a motor vehicle while having a blood or breath alcohol content statutorily prohibited under Section 41-6-44, 53-3-231, or 53-3-232, or while under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6-44, or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6-44.6, and that the person had refused to submit to a chemical test or tests under Subsection (1).

(e) (i) A person who has been notified of the Driver License Division's intention to revoke his license under this section is entitled to a hearing.

(ii) A request for the hearing shall be made in writing within ten calendar days after the date of the arrest.

(iii) Upon written request, the division shall grant to the person an opportunity to be heard within 29 days after the date of arrest.

(iv) If the person does not make a timely written request for a hearing before the division, his privilege to operate a motor vehicle in the state is revoked beginning on the 30th day after the date of arrest for a period of:

(A) 18 months unless Subsection (2)(e)(iv)(B) applies; or

(B) 24 months if the person has had a previous license sanction after July 1, 1993, under this section, Section 41-6-44.6, 53-3-223, 53-3-231, 53-3-232, or a conviction after July 1, 1993, under Section 41-6-44.

(f) If a hearing is requested by the person, the hearing shall be conducted by the Driver License Division in the county in which the offense occurred, unless the division and the person both agree that the hearing may be held in some other county.

(g) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe that a person was operating a motor vehicle in violation of Section 41-6-44, 41-6-44.6, or 53-3-231; and

(ii) whether the person refused to submit to the test.

(h) (i) In connection with the hearing, the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; and

(B) shall issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78-46-28.

(i) If after a hearing, the Driver License Division determines that the person was requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the person fails to appear before the Driver License Division as required in the notice, the Driver License Division shall revoke his license or permit to operate a motor vehicle in Utah beginning on the date the hearing is held for a period of:

(i) (A) 18 months unless Subsection (2)(i)(i)(B) applies; or

(B) 24 months if the person has had a previous license sanction after July 1, 1993, under this section, Section 41-6-44.6, 53-3-223, 53-3-231, 53-3-232, or a conviction after July 1, 1993, under Section 41-6-44.

(ii) The Driver License Division shall also assess against the person, in addition to any fee imposed under Subsection 53-3-205(14), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.

(iii) The fee shall be cancelled if the person obtains an unappealed court decision following a proceeding allowed under this Subsection (2) that the revocation was improper.

(j) (i) Any person whose license has been revoked by the Driver License Division under this section may seek judicial review.

(ii) Judicial review of an informal adjudicative proceeding is a trial. Venue is in the district court in the county in which the offense occurred.

(3) Any person who is dead, unconscious, or in any other condition rendering him incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn the consent provided for in Subsection (1), and the test or tests may be administered whether the person has been arrested or not.

(4) Upon the request of the person who was tested, the results of the test or tests shall be made available to him.

(5) (a) Only a physician, registered nurse, practical nurse, or person authorized under Section 26-1-30, acting at the request of a peace officer, may withdraw blood to determine the alcoholic or drug content. This limitation does not apply to taking a urine or breath specimen.

(b) Any physician, registered nurse, practical nurse, or person authorized under Section 26-1-30 who, at the direction of a peace officer, draws a sample of blood from any person whom a peace officer has reason to believe is driving in violation of this chapter, or hospital or medical facility at which the sample is drawn, is immune from any civil or criminal liability arising from drawing the sample, if the test is administered according to standard medical practice.

(6) (a) The person to be tested may, at his own expense, have a physician of his own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect

admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(7) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(8) If a person under arrest refuses to submit to a chemical test or tests or any additional test under this section, evidence of any refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle while under the influence of alcohol, any drug, combination of alcohol and any drug, or while having any measurable controlled substance or metabolite of a controlled substance in the person's body.

41-6-44.11. Repealed.

41-6-44.12. Reporting test results -- Immunity from liability.

(1) As used in this section, "health care provider" means a person licensed under Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) A health care provider who is providing medical care to any person involved in a motor vehicle crash may notify, as soon as reasonably possible, the nearest peace officer or law enforcement agency if the health care provider has reason to believe, as a result of any test performed in the course of medical treatment, that the:

(a) person's blood alcohol concentration meets or exceeds the limit under Subsection 41-6-44(2)(a)(i) or (iii);

(b) person is younger than 21 years of age and has any measurable blood, breath, or urine alcohol concentration in the person's body; or

(c) person has any measurable controlled substance or metabolite of a controlled substance in the person's body which could be a violation of Subsection 41-6-44(2)(a)(ii) or Section 41-6-44.6.

(3) The report under Subsection (2) shall consist of the:

(a) name of the person being treated;

(b) date and time of the administration of the test; and

(c) results disclosed by the test.

(4) A health care provider participating in good faith in making a report or assisting an investigator from a law enforcement agency pursuant to this section is immune from any liability, civil or criminal, that otherwise might result by reason of those actions.

(5) A report under Subsection (2) may not be used to support a finding of probable cause that a person who is not a driver of a vehicle has committed an offense.

41-6-44.20. Drinking alcoholic beverage and open containers in motor vehicle prohibited -- Definitions -- Exceptions.

(1) A person may not drink any alcoholic beverage while operating a motor vehicle or while a passenger in a motor vehicle, whether the vehicle is moving, stopped, or parked on any highway.

(2) A person may not keep, carry, possess, transport, or allow another to keep, carry, possess, or transport in the passenger compartment of a motor vehicle, when the vehicle is on any highway, any container which contains any alcoholic beverage if the container has been opened, its seal broken, or the contents of the container partially consumed.

(3) In this section:

(a) "Alcoholic beverage" has the meaning given in Section 32A-1-105.

(b) "Chartered bus" has the meaning given in Section 32A-1-105.

(c) "Limousine" has the meaning given in Section 32A-1-105.

(d) "Passenger compartment" means the area of the vehicle normally occupied by the operator and passengers and includes areas accessible to them while traveling, such as a utility or glove compartment, but does not include a separate front or rear trunk compartment or other area of the vehicle not accessible to the operator or passengers while inside the vehicle.

(4) Subsections (1) and (2) do not apply to passengers in the living quarters of a motor home or camper.

(5) Subsection (2) does not apply to passengers traveling in any licensed taxicab or bus.

(6) Subsections (1) and (2) do not apply to passengers who have carried their own alcoholic beverage onto a limousine or chartered bus that is in compliance with Subsections

32A-12-213 (1) (b) and (c).

(7) Subsections (1) and (2) do not apply to a passenger in a motorboat on the waters of this state as these terms are defined in Section 73-18-2.

41-6-44.30. Seizure and impoundment of vehicles by peace officers -- Impound requirements -- Removal of vehicle by owner.

(1) If a peace officer arrests or cites the operator of a vehicle for violating Section 41-6-44, 41-6-44.6, or 41-6-44.10, or a local ordinance similar to Section 41-6-44 which complies with Subsection 41-6-43(1), the peace officer shall seize and impound the vehicle in accordance with Section 41-6-102.5, except as provided under Subsection (2).

(2) If a registered owner of the vehicle, other than the operator, is present at the time of arrest, the peace officer may release the vehicle to that registered owner, but only if:

(a) the registered owner:

(i) requests to remove the vehicle from the scene; and

(ii) presents to the peace officer sufficient identification to prove ownership of the vehicle or motorboat;

(b) the registered owner identifies a driver with a valid operator's license who:

(i) complies with all restrictions of his operator's license; and

(ii) would not, in the judgment of the officer, be in violation of Section 41-6-44, 41-6-44.6, or 41-6-44.10, or a local ordinance similar to Section 41-6-44 which complies with Subsection 41-6-43(1), if permitted to operate the vehicle; and

(c) the vehicle itself is legally operable.

(3) If necessary for transportation of a motorboat for impoundment under this section, the motorboat's trailer may be used to transport the motorboat.

41-6-45. Reckless driving - Penalty.

(1) A person is guilty of reckless driving who operates a vehicle:

(a) in willful or wanton disregard for the safety of persons or property; or

(b) while committing three or more moving traffic violations under Title 41,

Chapter 6, Traffic Rules and Regulations, in a series of acts within a single continuous period of driving.

(2) A person who violates Subsection (1) is guilty of a class B misdemeanor.

ARTICLE 14
STOPPING, STANDING AND PARKING

41-6-101. Stopping or parking on roadway outside business or residential district.

Outside a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the roadway when it is practical to stop, park, or so leave such vehicle off the roadway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such roadway.

This section and Sections 41-6-103 and 41-6-104 shall not apply to the driver of any vehicle which is disabled while on the paved or main traveled portion of a roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

41-6-102. Peace officer authorized to move vehicle.

(1) If a peace officer finds a vehicle in violation of Section 41-6-101, the officer may move the vehicle, cause the vehicle to be moved, or require the driver or other person responsible for the vehicle to move the vehicle to a safe position off the highway.

(2) A peace officer may remove or cause to be removed to a place of safety any unattended vehicle left standing upon any highway in violation of this article or in a position or under circumstances that the vehicle obstructs the normal movement of traffic.

(3) In accordance with Section 41-6-102.5, a peace officer may remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:

- (a) the vehicle has been reported stolen or taken without the consent of its owner;
- (b) the person responsible for the vehicle is unable to provide for its custody or removal; or
- (c) the person operating the vehicle is arrested for an alleged offense for which the peace officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.

41-6-102.5. Removal and impoundment of vehicles -- Reporting and notification requirements.

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Sections 41-1a-1101, 41-6-44.30, 41-6-102, 41-6-116.10, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway

authority as defined in Section 72-1-102, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner, to a state impound yard, or if none, to a garage, docking area, or other place of safety.

(2) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

- (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
- (b) by the department under Subsection (9).

(3) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

- (i) the peace officer or agency by whom the peace officer is employed;
and
- (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(b) The report shall be in a form specified by the Motor Vehicle Division and shall include:

- (i) the operator's name, if known;
- (ii) a description of the vehicle, vessel, or outboard motor;
- (iii) the vehicle identification number or vessel or outboard motor identification number;
- (iv) the license number or other identification number issued by a state agency;
- (v) the date, time, and place of impoundment;
- (vi) the reason for removal or impoundment;
- (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and
- (viii) the place where the vehicle, vessel, or outboard motor is stored.

(c) Until the tow truck operator or tow truck motor carrier reports the removal as required under Subsection (3), a tow truck motor carrier or impound yard may not:

- (i) collect any fee associated with the removal; and
- (ii) begin charging storage fees.

(4) (a) Upon receipt of the report, the Motor Vehicle Division shall give notice to the registered owner of the vehicle, vessel, or outboard motor and any lien holder in the manner prescribed by Section 41-1a-114.

(b) The notice shall:

- (i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

- (ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor; and

- (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released.

(c) If the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the registered owner and any lien holder of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(5) (a) The vehicle, vessel, or outboard motor shall be released after the registered owner, lien holder, or the owner's agent:

- (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

- (ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

- (iii) completes the registration, if needed, and pays the appropriate fees;

- (iv) if the impoundment was made under Section 41-6-44.30, pays an

administrative impound fee of \$200;

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b) (i) Twenty-five dollars of the impound fees assessed under Subsection (5)(a)(iv) are dedicated credits to the Motor Vehicle Division;

(ii) \$84 of the impound fees assessed under Subsection (5)(a)(iv) shall be deposited in the Department of Public Safety Restricted Account created in Section 53-3-106; and

(iii) the remainder of the impound fees assessed under Subsection (5)(a)(iv) shall be deposited in the General Fund.

(6) An impounded vehicle, vessel, or outboard motor not claimed by the registered owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in accordance with that section and the proceeds, if any, shall be disposed of as provided in Section 41-1a-1104. The date of impoundment is considered the date of seizure for computing the time period provided in Section 41-1a-1103.

(7) The registered owner who pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor, has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(8) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(9) The department shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, setting the performance standards for towing companies to be used by the department.

(10) (a) The Motor Vehicle Division may specify that a report required under Subsection (3) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database. The fees shall be reasonable and fair and shall reflect the cost of administering the database.

41-6-102.7. Removal of unattended vehicles prohibited without authorization - Penalties.

(1) In cases not amounting to burglary or theft of a vehicle, a person may not remove an unattended vehicle without prior authorization of:

(a) a peace officer;

(b) a law enforcement agency;

(c) a highway authority, as defined under Section 72-1-102, having jurisdiction over the highway on which there is an unattended vehicle; or

(d) the owner or person in lawful possession or control of the real property.

(2) (a) An authorization from a person specified under Subsection (1)(a), (b), or (c) shall be in a form specified by the Motor Vehicle Division.

(b) The removal of the unattended vehicle shall comply with requirements of Section 41-6-102.5.

(3) The removal of the unattended vehicle authorized under Subsection (1)(d) shall comply with requirements of Section 72-9-603.

(4) A person who violates Subsections (1) or (3) is guilty of a class C misdemeanor.

53-3-101. Short title.

This chapter is known as the "Uniform Driver License Act."

53-3-102. Definitions.

As used in this chapter:

(1) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(2) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(3) "Class M license" means the class of license issued to drive a motorcycle as defined under this chapter.

(4) "Commercial driver license" or "CDL" means a license issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle.

(5) (a) "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property if the vehicle:

(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport more than 15 passengers, including the driver;
or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles; and

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes.

(6) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs;

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(7) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part IV, Proof of Owner's or Operator's Security, do not apply.

(8) "Director" means the division director appointed under Section 53-3-103.

(9) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(10) "Division" means the Driver License Division of the department created in Section 53-3-103.

(11) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(12) (a) "Driver" means any person who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4 or federal law.

(13) "Extension" means a renewal completed exclusively by mail.

(14) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(15) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

(16) "License" means the privilege to drive a motor vehicle.

(17) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(18) "Motorboat" has the same meaning as provided under Section 73-18-2.

(19) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(20) "Nonresident" means a person who:

(a) is not a resident of this state; and

(b) (i) has not engaged in any gainful occupation in this state for an aggregate period of 60 days in the preceding 12 months; or

(ii) is temporarily assigned by his employer to work in Utah.

(21) (a) "Owner" means a person other than a lienholder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

(22) "Renewal" means to validate a license certificate so that it expires at a later date.

(23) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

(24) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

(25) "School bus" means every publicly or privately owned motor vehicle designed for transporting ten or more passengers and operated for the transportation of children to or from school or school activities.

(26) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

(27) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

53-3-218. Court to report convictions and may recommend suspension of license -- Severity of speeding violation defined.

(1) As used in this section:

(a) "conviction" means conviction by the court of first impression or final administrative determination in an administrative traffic proceeding; and

(b) "court" includes an administrative traffic proceeding in accordance with Section 10-3-703.5.

(2) (a) A court having jurisdiction over offenses committed under this chapter or any other law of this state, or under any municipal ordinance regulating driving motor vehicles on highways or driving motorboats on the water, shall forward to the division within ten days, an abstract of the court record of the conviction or plea held in abeyance of any person in the court for a reportable traffic or motorboating violation of any laws or ordinances, and may recommend

the suspension of the license of the person convicted.

(b) When the division receives a court record of a conviction or plea in abeyance for a motorboat violation, the division may only take action against a person's driver license if the motorboat violation is for a violation of Title 41, Chapter 6, Article 5, Driving While Intoxicated and Reckless Driving.

(3) The abstract shall be made in the form prescribed by the division and shall include:

- (a) the name and address of the party charged;
- (b) the number of his license certificate, if any;
- (c) the registration number of the motor vehicle or motorboat involved;
- (d) whether the motor vehicle was a commercial motor vehicle;
- (e) whether the motor vehicle carried hazardous materials;
- (f) the nature of the offense;
- (g) the date of the hearing;
- (h) the plea;
- (i) the judgment or whether bail was forfeited; and
- (j) the severity of the violation, which shall be graded by the court as

"minimum,"

"intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

(4) When a convicted person secures a judgment of acquittal or reversal in any appellate court after conviction in the court of first impression, the division shall reinstate his license immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

53-3-221. Offenses which may result in denial, suspension, disqualification, or revocation of license without hearing -- Additional grounds for suspension -- Point system for traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.

(1) By following the emergency procedures in Title 63, Chapter 46b, Administrative Procedures Act, the division may immediately deny, suspend, disqualify, or revoke the license of any person without hearing and without receiving a record of the person's conviction of crime when the division has been notified or has reason to believe the person:

(a) has committed any offenses for which mandatory suspension or revocation of a license is required upon conviction under Section 53-3-220;

(b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an accident resulting in death or injury to any other person, or serious property damage;

(c) is incompetent to drive a motor vehicle or is afflicted with mental or physical infirmities or disabilities rendering it unsafe for the person to drive a motor vehicle upon the highways;

(d) has committed a serious violation of the motor vehicle laws of this state;

(e) has permitted an unlawful use of the license as defined in Section 53-3-229;
or

(f) has been convicted of serious offenses against traffic laws governing the movement of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the safety of other persons on the highways.

(2) (a) The division may suspend the license of a person under Subsection (1) when the person has failed to comply with the terms stated on a traffic citation issued in this state, except this Subsection (2) does not apply to highway weight limit violations or violations of law governing the transportation of hazardous materials.

(b) This Subsection (2) applies to parking and standing violations only if a court has issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy the terms of the citation.

(c) (i) This Subsection (2) may not be exercised unless notice of the pending suspension of the driving privilege has been sent at least ten days previously to the person at the address provided to the division.

(ii) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of a suspension that occurred as a result of failure to comply with the terms stated on a traffic citation.

(3) (a) The division may suspend the license of a person under Subsection (1) when the division has been notified by a court that the person has an outstanding unpaid fine, an outstanding incomplete restitution requirement, or an outstanding warrant levied by order of a court.

(b) The suspension remains in effect until the division is notified by the court that

the order has been satisfied.

(c) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of the suspension.

(4) The division shall make rules establishing a point system as provided for in this Subsection (4).

(a) (i) The division shall assign a number of points to each type of moving traffic violation as a measure of its seriousness.

(ii) The points shall be based upon actual relationships between types of traffic violations and motor vehicle traffic accidents.

(b) Every person convicted of a traffic violation shall have assessed against his driving record the number of points that the division has assigned to the type of violation of which the person has been convicted, except that the number of points assessed shall be decreased by 10% if on the abstract of the court record of the conviction the court has graded the severity of violation as minimum, and shall be increased by 10% if on the abstract the court has graded the severity of violation as maximum.

(c) (i) A separate procedure for assessing points for speeding offenses shall be established by the division based upon the severity of the offense.

(ii) The severity of a speeding violation shall be graded as:

(A) "minimum" for exceeding the posted speed limit by up to ten miles per hour;

(B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per hour; and

(C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

(iii) Consideration shall be made for assessment of no points on minimum speeding violations, except for speeding violations in school zones.

(d) (i) Points assessed against a person's driving record shall be deleted for violations occurring before a time limit set by the division.

(ii) The time limit may not exceed three years.

(iii) The division may also delete points to reward violation-free driving for periods of time set by the division.

(e) (i) By publication in two newspapers having general circulation throughout the state, the division shall give notice of the number of points it has assigned to each type of traffic violation, the time limit set by the division for the deletion of points, and the point level at which the division will generally take action to deny or suspend under this section.

(ii) The division may not change any of the information provided above regarding points without first giving new notice in the same manner.

(5) (a) (i) Upon denying or suspending the license of a person under this section, the division shall immediately notify the licensee in a manner specified by the division and afford him an opportunity for a hearing in the county where the licensee resides.

(ii) The hearing shall be documented, and the division or its authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee.

(iii) One or more members of the division may conduct the hearing, and any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division.

(iv) After the hearing the division shall either rescind its order of denial or suspension, extend the denial or suspension of the license, or revoke the license.

(b) The denial or suspension of the license remains in effect pending qualifications determined by the division regarding a person:

(i) whose license has been denied or suspended following reexamination;

(ii) who is incompetent to drive a motor vehicle;

(iii) who is afflicted with mental or physical infirmities that might make him dangerous on the highways; or

(iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

(6) (a) The division may suspend or revoke the license of any resident of this state upon

receiving notice of the conviction of that person in another state of an offense committed there that, if committed in this state, would be grounds for the suspension or revocation of a license.

(b) The division may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws of this state, forward a certified copy of the record to the motor vehicle administrator in the state where the person convicted is a resident.

(7) (a) The division may suspend or revoke the license of any nonresident to drive a motor vehicle in this state for any cause for which the license of a resident driver may be suspended or revoked.

(b) Any nonresident who drives a motor vehicle upon a highway when his license has been suspended or revoked by the division is guilty of a class C misdemeanor.

(8) (a) The division may not deny or suspend the license of any person for a period of more than one year except:

(i) for failure to comply with the terms of a traffic citation under Subsection (2);

(ii) upon receipt of a second or subsequent order suspending juvenile driving privileges under Section 53-3-219;

(iii) when extending a denial or suspension upon receiving certain records or reports under Subsection 53-3-220(2); and

(iv) for failure to give and maintain owner's or operator's security under Section 41-12a-411.

(b) The division may suspend the license of a person under Subsection (2) until he shows satisfactory evidence of compliance with the terms of the traffic citation.

(9) (a) By following the emergency procedures in Title 63, Chapter 46b, Administrative Procedures Act, the division may immediately suspend the license of any person without hearing and without receiving a record of his conviction for a crime when the division has reason to believe that the person's license was granted by the division through error or fraud or that the necessary consent for the license has been withdrawn or is terminated.

(b) The procedure upon suspension is the same as under Subsection (5), except that after the hearing the division shall either rescind its order of suspension or cancel the license.

(10) (a) The division, having good cause to believe that a licensed driver is incompetent

or otherwise not qualified to be licensed, may upon notice in a manner specified by the division of at least five days to the licensee require him to submit to an examination.

(b) Upon the conclusion of the examination the division may suspend or revoke the person's license, permit him to retain the license, or grant a license subject to a restriction imposed in accordance with Section 53-3-208.

(c) Refusal or neglect of the licensee to submit to an examination is grounds for suspension or revocation of his license.

(11) A report authorized by Section 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in this state if the conviction was for a speed of ten miles per hour or less, above the posted speed limit and did not result in an accident, unless authorized in a manner specified by the division by the individual whose report is being requested.

(12) (a) By following the emergency procedures in Title 63, Chapter 46b, Administrative Procedures Act, the division may immediately suspend the license of a person if it has reason to believe that the person is the owner of a motor vehicle for which security is required under Title 41, Chapter 12a, Motor Vehicle Financial Responsibility, and has driven the motor vehicle or permitted it to be driven within this state without the security being in effect.

(b) Section 41-12a-411 regarding the requirement of proof of owner's or operator's security applies to persons whose driving privileges are suspended under this Subsection (12).

(c) If the division exercises the right of immediate suspension granted under this Subsection (12), the notice and hearing provisions of Subsection (5) apply.

(d) A person whose license suspension has been sustained or whose license has been revoked by the division under this subsection may file a request for agency action requesting a hearing.

(13) Any suspension or revocation of a person's license under this section also disqualifies any license issued to that person under Part 4 of this chapter.

53-3-231. Person under 21 may not operate vehicle with detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing and decision -- Suspension of license or operating privilege -- Fees -- Judicial review -- Referral to local substance abuse authority or program.

(1) (a) As used in this section:

(i) "Local substance abuse authority" has the same meaning as provided

in Section 62A-8-101.

(ii) "Substance abuse program" means any substance abuse program licensed by the Department of Human Services or the Department of Health and approved by the local substance abuse authority.

(b) Calculations of blood, breath, or urine alcohol concentration under this section shall be made in accordance with the procedures in Subsection 41-6-44(2).

(2) (a) A person younger than 21 years of age may not operate or be in actual physical control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol concentration in his body as shown by a chemical test.

(b) (i) A person with a valid operator license who violates Subsection (2)(a), in addition to any other applicable penalties arising out of the incident, shall have his operator license denied or suspended as provided in Subsection (2)(b)(ii).

(ii) (A) For a first offense under Subsection (2)(a), the Driver License Division of the Department of Public Safety shall deny the person's operator license if ordered or not challenged under this section for a period of 90 days beginning on the 30th day after the date of the arrest under Section 32A-12-209.

(B) For a second or subsequent offense under Subsection (2)(a), within three years of a prior denial or suspension, the Driver License Division shall suspend the person's operator license for a period of one year beginning on the 30th day after the date of arrest.

(c) (i) A person who has not been issued an operator license who violates Subsection (2)(a), in addition to any other penalties arising out of the incident, shall be punished as provided in Subsection (2)(c)(ii).

(ii) For one year or until he is 17, whichever is longer, a person may not operate a vehicle and the Driver License Division may not issue the person an operator license or learner's permit.

(3) (a) When a peace officer has reasonable grounds to believe that a person may be violating or has violated Subsection (2), the peace officer may, in connection with arresting the person for a violation of Section 32A-12-209, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6-44.10.

(b) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Subsection (2)(a) will result in denial or suspension of the person's license to operate a motor vehicle or a refusal to issue

a license.

(c) If the person submits to a chemical test and the test results indicate a blood, breath, or urine alcohol content in violation of Subsection (2)(a), or if the officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Subsection (2)(a), the officer directing administration of the test or making the determination shall serve on the person, on behalf of the Driver License Division, immediate notice of the Driver License Division's intention to deny or suspend the person's license to operate a vehicle or refusal to issue a license under Subsection (2).

(4) When the officer serves immediate notice on behalf of the Driver License Division, he shall:

(a) take the Utah license certificate or permit, if any, of the operator;

(b) issue a temporary license certificate effective for only 29 days if the driver had a valid operator's license; and

(c) supply to the operator, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the Driver License Division.

(5) A citation issued by the officer may, if approved as to form by the Driver License Division, serve also as the temporary license certificate under Subsection (4)(b).

(6) As a matter of procedure, the peace officer serving the notice shall send to the Driver License Division within ten calendar days after the date of arrest and service of the notice:

(a) the person's driver license certificate, if any;

(b) a copy of the citation issued for the offense;

(c) a signed report in a manner specified by the Driver License Division indicating the chemical test results, if any; and

(d) any other basis for the officer's determination that the person has violated Subsection (2).

(7) (a) (i) Upon request in a manner specified by the division, the Driver License Division shall grant to the person an opportunity to be heard within 29 days after the date of arrest under Section 32A-12-209.

(ii) The request shall be made within ten calendar days of the date of the arrest.

(b) A hearing, if held, shall be before the Driver License Division in the county in which the arrest occurred, unless the Driver License Division and the person agree that the hearing may be held in some other county.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was operating a motor vehicle or motorboat in violation of Subsection (2)(a);

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) In connection with a hearing the Driver License Division or its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and records as defined in Section 46-4-102.

(e) One or more members of the Driver License Division may conduct the hearing.

(f) Any decision made after a hearing before any number of the members of the Driver License Division is as valid as if made after a hearing before the full membership of the Driver License Division.

(g) After the hearing, the Driver License Division shall order whether the person:

(i) with a valid license to operate a motor vehicle will have his license denied or not or suspended or not; or

(ii) without a valid operator license will be refused a license under Subsection (2)(c).

(h) If the person for whom the hearing is held fails to appear before the Driver License Division as required in the notice, the division shall order whether the person shall have his license denied, suspended, or not denied or suspended, or whether an operator license will be refused or not refused.

(8) (a) Following denial or suspension the Driver License Division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(14), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs. This fee shall be canceled if the person obtains an unappealed Driver License Division hearing or court decision that the suspension was not proper.

(b) A person whose operator license has been denied, suspended, or postponed

by the Driver License Division under this section may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

(9) After reinstatement of an operator license for a first offense under this section, a report authorized under Section 53-3-104 may not contain evidence of the denial or suspension of the person's operator license under this section if he has not been convicted of any other offense for which the denial or suspension may be extended.

(10) (a) In addition to the penalties in Subsection (2), a person who violates Subsection (2)(a) shall:

(i) obtain an assessment and recommendation for appropriate action from a substance abuse program, but any associated costs shall be the person's responsibility; or

(ii) be referred by the Driver License Division to the local substance abuse authority for an assessment and recommendation for appropriate action.

(b) (i) Reinstatement of the person's operator license or the right to obtain an operator license is contingent upon successful completion of the action recommended by the local substance abuse authority or the substance abuse program.

(ii) The local substance abuse authority's or the substance abuse program's recommended action shall be determined by an assessment of the person's alcohol abuse and may include:

(A) a targeted education and prevention program;

(B) an early intervention program; or

(C) a substance abuse treatment program.

(iii) Successful completion of the recommended action shall be determined by standards established by the Division of Substance Abuse.

(c) At the conclusion of the penalty period imposed under Subsection (2), the local substance abuse authority or the substance abuse program shall notify the Driver License Division of the person's status regarding completion of the recommended action.

(d) The local substance abuse authorities and the substance abuse programs shall cooperate with the Driver License Division in:

(i) conducting the assessments;

(ii) making appropriate recommendations for action; and

(iii) notifying the Driver License Division about the person's status regarding completion of the recommended action.

(e) (i) The local substance abuse authority is responsible for the cost of the assessment of the person's alcohol abuse, if the assessment is conducted by the local substance abuse authority.

(ii) The local substance abuse authority or a substance abuse program selected by a person is responsible for:

(A) conducting an assessment of the person's alcohol abuse; and

(B) for making a referral to an appropriate program on the basis of the findings of the assessment.

(iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees associated with the recommended program to which the person selected or is referred.

(B) The costs and fees under Subsection (10)(e)(iii)(A) shall be based on a sliding scale consistent with the local substance abuse authority's policies and practices regarding fees for services or determined by the substance abuse program.

53-3-232. Conditional license -- May not operate vehicle with alcohol in body penalty.

(1) As used in this section, "qualifying conviction" means:

(a) a conviction of a violation of Section 41-6-44, Section 41-6-44.6, a local ordinance which complies with the requirements of Subsection 41-6-43(1), Section 76-5-207, or of alcohol-related reckless driving as described under Subsection 41-6-44(9);

(b) a refusal and suspension under Section 41-6-44.10; or

(c) a violation of Subsection (3).

(2) The division may only issue, reinstate, or renew a driver license in the form of a no alcohol conditional license to a person who has a qualifying conviction for a period of:

(a) two years after reinstatement of the driver license following a first qualifying conviction; and

(b) six years after reinstatement of the driver license following a second or subsequent qualifying conviction.

(3) A no alcohol conditional license shall be issued on the condition that the person may not operate or be in actual physical control of a vehicle or motorboat in this state with any alcohol in the person's body.

(4) It is a class B misdemeanor for a person who has been issued a no alcohol conditional license to operate or be in actual physical control of a vehicle or motorboat in this state in violation of Subsection (3).

78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.

(1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings concerning:

(a) a minor who has violated any federal, state, or local law or municipal ordinance or a person younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age, regardless of where the violation occurred, excluding traffic and boating laws and ordinances;

(b) a person 21 years of age or older who has failed or refused to comply with an order of the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's 21st birthday; however, the continuing jurisdiction is limited to causing compliance with existing orders;

(c) a minor who is an abused child, neglected child, or dependent child, as those terms are defined in Section 78-3a-103;

(d) a protective order for a minor who is alleged to be an abused child or neglected child, except as provided in Section 78-3a-105, and unless the petition is filed by a natural parent or stepparent of the minor against a natural parent or stepparent of the minor;

(e) the determination of the custody of a minor or to appoint a guardian of the person or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

4, (f) the termination of the legal parent-child relationship in accordance with Part Termination of Parental Rights Act, including termination of residual parental rights and duties;

(g) the treatment or commitment of a mentally retarded minor;

(h) a minor who is a habitual truant from school;

(i) the judicial consent to the marriage of a minor under age 16 upon a determination of voluntariness or where otherwise required by law, employment, or enlistment of a minor when consent is required by law;

(j) any parent or parents of a minor committed to a secure youth corrections facility, to order, at the discretion of the court and on the recommendation of a secure youth corrections facility, the parent or parents of a minor committed to a secure youth corrections facility for a custodial term, to undergo group rehabilitation therapy under the

direction of a secure youth corrections facility therapist, who has supervision of that parent's or parents' minor, or any other therapist the court may direct, for a period directed by the court as recommended by a secure youth corrections facility;

(k) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;

(l) the treatment or commitment of a mentally ill child. The court may commit a child to the physical custody of a local mental health authority or to the legal custody of the Division of Mental Health in accordance with the procedures and requirements of Title 62A, Chapter 12, Part 2A, Commitment of Persons Under Age 18 to Division of Mental Health. The court may not commit a child directly to the Utah State Hospital;

(m) the commitment of a minor in accordance with Section 62A-8-501;

(n) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63-46b-15; and

(o) adoptions conducted in accordance with the procedures described in Title 78, Chapter 30, Adoption, when the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the minor.

(2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive jurisdiction over any traffic or boating offense committed by a minor under 16 years of age and concurrent jurisdiction over all other traffic or boating offenses committed by a minor 16 years of age or older, except that the court shall have exclusive jurisdiction over the following offenses committed by a minor under 18 years of age:

(a) Section 76-5-207, automobile homicide;

(b) Section 41-6-44, operating a vehicle while under the influence of alcohol or drugs;

(c) Section 41-6-45, reckless driving or Section 73-18-12, reckless operation;

(d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or semitrailer for an extended period of time; and

(e) Section 41-6-13.5 or 73-18-20, fleeing a peace officer.

(3) The court also has jurisdiction over traffic and boating offenses that are part of a single criminal episode filed in a petition that contains an offense over which the court has jurisdiction.

(4) The juvenile court has jurisdiction over questions of custody, support, parent-time, and visitation certified to it by the district court pursuant to Section 78-3a-105.

(5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is referred to it by the Division of Child and Family Services or by public or private agencies that contract with the division to provide services to that minor where, despite earnest and persistent efforts by the division or agency, the minor has demonstrated that he:

(a) is beyond the control of his parent, guardian, lawful custodian, or school authorities to the extent that his behavior or condition endangers his own welfare or the welfare of others; or

(b) has run away from home.

(6) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(7) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Section 78-3a-602.

78-18-1. Basis for punitive damages awards -- Section inapplicable to DUI cases -- Division of award with state.

(1) (a) Except as otherwise provided by statute, punitive damages may be awarded only if compensatory or general damages are awarded and it is established by clear and convincing evidence that the acts or omissions of the tortfeasor are the result of willful and malicious or intentionally fraudulent conduct, or conduct that manifests a knowing and reckless indifference toward, and a disregard of, the rights of others.

(b) The limitations, standards of evidence, and standards of conduct of Subsection (1)(a) do not apply to any claim for punitive damages arising out of the tortfeasor's operation of a motor vehicle or motorboat while voluntarily intoxicated or under the influence of any drug or combination of alcohol and drugs as prohibited by Section 41-6-44.

(c) The award of a penalty under Section 78-11-15 or 78-11-16 regarding shoplifting is not subject to the prior award of compensatory or general damages under Subsection (1)(a) whether or not restitution has been paid to the merchant prior to or as a part of a civil action under Section 78-11-15 or 78-11-16.

(2) Evidence of a party's wealth or financial condition shall be admissible only after a finding of liability for punitive damages has been made.

(3) In any judgment where punitive damages are awarded and paid, 50% of the amount of the punitive damages in excess of \$20,000 shall, after payment of attorneys' fees and costs, be remitted to the state treasurer for deposit into the General Fund.

76-5-207. Automobile homicide.

(1) (a) Criminal homicide is automobile homicide, a third degree felony, if the person operates a motor vehicle in a negligent manner causing the death of another and:

(i) has sufficient alcohol in his body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .08 grams or greater at the time of the test;

(ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle; or

(iii) has a blood or breath alcohol concentration of .08 grams or greater at the time of operation.

(b) For the purpose of this subsection, "negligent" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.

(2) (a) Criminal homicide is automobile homicide, a second degree felony, if the person operates a motor vehicle in a criminally negligent manner causing the death of another and:

(i) has sufficient alcohol in his body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .08 grams or greater at the time of the test;

(ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle; or

(iii) has a blood or breath alcohol concentration of .08 grams or greater at the time of operation.

(b) For the purpose of this section, "criminally negligent" means criminal negligence as defined by Subsection 76-2-103(4).

(3) The standards for chemical breath analysis as provided by Section 41-6-44.3 and the provisions for the admissibility of chemical test results as provided by Section 41-6-44.5 apply to determination and proof of blood alcohol content under this section.

(4) Calculations of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6-44(2).

(5) The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense to any charge of violating this section.

(6) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by Rules of Evidence or the constitution.

(7) For purposes of this section, "motor vehicle" means any self-propelled vehicle and includes any automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.